

VILLAGE OF RUIDOSO

**AGENDA INDEX
SPECIAL MEETING
MARCH 24, 2026 AT 9:00 AM**

**313 Cree Meadows Dr. Ruidoso
NM,88345**

NOTICE OF SPECIAL MEETING

Notice is hereby given that Lynn D. Crawford, Mayor of the Village of Ruidoso, has called a Special Meeting of the Governing Body of the Village of Ruidoso for Tuesday, March 24, 2026 at 9:00 a.m. The Special Meeting will be held at 313 Cree Meadows Dr. Ruidoso, NM 88345. The purpose of the Special Meeting is as follows:

CALL TO ORDER

MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE/SALUTE TO THE STATE FLAG

Salute to the State Flag: "I Salute the Flag of the State of New Mexico, the Zia Symbol of Perfect Friendship Among United Cultures."

ROLL CALL

AGENDA ITEMS

1. Public Hearing for Adoption of Ordinance 2026-10, an Ordinance Amending the Village of Ruidoso Municipal Code of Ordinances Chapter 54, Land Use; Article II-Land Development Code; Division 4-Zoning Districts; Section 54-72 – Overlay Zones; and Appendix A—Fees, Fines, and Penalties.
2. Discussion and Possible Action on Agreement between the Village of Ruidoso and Roso's Ristorante, to Operate a Full Service Restaurant at 118 Lakeshore Drive, Alto New Mexico.
3. Discussion and Possible Action on Adoption of Resolution 2026-18, a Resolution Authorizing the Village of Ruidoso to Submit an Application to the New Mexico Finance Authority to Participate in the Local Government Planning Fund.
4. Discussion and Possible Action on Proposal from Rymarc Construction, Inc. for Roof Replacement on Two Existing Cabins and Exterior Repairs at 603 Mechem Dr. Utilizing NM GSD Statewide Price Agreement No. 30-00000-23-00070 in the Amount of \$90,202.72 Including NMGRT.
5. Discussion and Possible Action on Proposal from Rymarc Construction Inc., for the Porr Drive/Brady Canyon Low Water Crossing Emergency Temporary Repair, Installing a Culvert and Relocating Sewer Line to Reduce Flooding Impacts, Utilizing NM GSD Statewide Price Agreement #30-00000-23-00070 in the Amount of \$403,939.00 Including NMGRT.

6. Discussion and Possible Action on Task Order #2026-001P-01 with Souder, Miller & Associates for Professional Engineering Services on the Design and Construction Observation of the Upper Canyon Diversion Reconstruction in the Amount of \$421,890.14 Including NMGRT.

CLOSED SESSION

- Discussion of limited personnel matters. § 10-15-1.H.2, NMSA 1978.
- Discussion subject to the attorney-client privilege pertaining to threatened or pending litigation in which the Village of Ruidoso is or may become a participant. §10-15-1.H.7, NMSA 1978.
- Discussion of the purchase, acquisition, and/or disposal of real property and/or water rights by the Village of Ruidoso. § 10-15-1.H.8, NMSA 1978.

Any action taken as a result of the closed session will be brought back into open session.

ADJOURN

I certify that notice has been given in compliance with Sections 10-15-1 through 10-15-4 NMSA 1978 and 2026-01. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Village Clerk at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Village Clerk if a summary or other type of accessible format is needed.

Yvonne Vigil, Village Clerk

AGENDA MEMORANDUM

Village of Ruidoso

AGENDA ITEMS - 1.

To:

Presenter(s): Alex Koenig, Community Development Director

Meeting Date: March 24, 2026

Re: Public Hearing for Adoption of Ordinance 2026-10, an Ordinance Amending the Village of Ruidoso Municipal Code of Ordinances Chapter 54, Land Use; Article II- Land Development Code; Division 4-Zoning Districts; Section 54-72 – Overlay Zones; and Appendix A—Fees, Fines, and Penalties.

Item Summary:

Public Hearing for Adoption of Ordinance 2026-10, an Ordinance Amending the Village of Ruidoso Municipal Code of Ordinances Chapter 54, Land Use; Article II- Land Development Code; Division 4-Zoning Districts; Section 54-72 – Overlay Zones; and Appendix A—Fees, Fines, and Penalties.

Financial Impact:

None.

Item Discussion:

The Governing Body amended Section 54-72 of the Village Code regarding regulation of Short-Term Rental (STR) properties in February 2025. Among the changes made was a prohibition on the use of fire pits and outdoor burning at any STR property in the Village. The ordinance furthermore directed the Community Development Director to suspend the permit of an STR of any property where the illegal use of a fire pit or outdoor burning reported to the Village or third-party monitoring agency and confirmed by the Village with the Community Development Director then placing on the next available regular Governing Body agenda to request revocation of the STR permit.

The proposed amendments would substitute the Planning Commission for the Governing Body for the hearing and consideration of revocation of the STR permit and that the decision of the Planning Commission would be final with no right of appeal to the Governing Body.

Recommendations:

To Approve Adoption of Ordinance 2026-10, an Ordinance Amending the Village of Ruidoso Municipal Code of Ordinances Chapter 54, Land Use; Article II- Land Development Code; Division 4-Zoning Districts; Section 54-72 – Overlay Zones; and Appendix A—Fees, Fines,

and Penalties.

ATTACHMENTS:

[STR Ordinance 2026-10.pdf](#)

VILLAGE OF RUIDOSO

ORDINANCE 2026-10

AN ORDINANCE AMENDING THE VILLAGE OF RUIDOSO MUNICIPAL CODE OF ORDINANCES CHAPTER 54, LAND USE; ARTICLE II- LAND DEVELOPMENT CODE; DIVISION 4-ZONING DISTRICTS; SECTION 54-72 – OVERLAY ZONES; AND APPENDIX A—FEES, FINES, AND PENALTIES.

WHEREAS, THE Governing Body of the Village of Ruidoso is updating the Short-Term Residential Rental Overlay Zone to reflect the current applicable building codes; and

WHEREAS, The Governing Body of the Village of Ruidoso has determined that these amendments are necessary; and

WHEREAS, The Planning Commission and the Governing Body have conducted a duly advertised public hearing to consider this ordinance and unanimously recommends approval and adoption; and

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the Village of Ruidoso that Chapter 54, Article II, Division 3, Section 54-72 is hereby amended by the addition of new text and modification or deletion of existing text as follows:

The strike out language is to be removed, and the additions to the section are bold and underlined.
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Sec. 54-72. Short-term residential rental overlay zone.

- (a) Purpose of zone. The Governing Body of the Village of Ruidoso finds and declares as follows:
- (1) Short-term residential rentals provide a community benefit by expanding the number and type of lodging facilities available to seasonal visitors.
 - (2) Short-term residential rentals are not commercial but are strictly a residential use of the property under the Village of Ruidoso Municipal Code.
 - (3) The provisions of this section are necessary to prevent a burden on village services and impacts on residential neighborhoods posed by short-term residential rentals.
- (b) Applicability of requirements. This overlay zone applies to all non-commercial residential property within the village regardless of the zoning district. These requirements ~~of section 54-72~~ shall apply to dwelling units that are rented at some time during the year for a short duration that are not part of a commercial business enterprise such as a hotel, motel or commercial cabin rental located on a single lot or a group of contiguous lots within a commercial zoning district. These requirements do apply to individual dwelling units on non-contiguous property owned and operated by a hotel, motel or commercial cabin rental owner.
- (c) Definitions. For purposes of this section, the following words and phrases shall have the meaning respectively ascribed to them by this subsection:
- (1) Local contact person means an owner, representative of the owner or local property manager who lives in the Village of Ruidoso or within proximity of the village limits such that he/she is available to respond within an hour or less to tenant and neighborhood questions or concerns and is authorized to respond to any violation of this section and take remedial action.

- (2) Managing agency or agent means a person, firm or agency licensed with the New Mexico Real Estate Commission representing the owner of the residential rental, or a person, firm or agency owning the residential unit.
- (3) Operator means the person who is proprietor of a residential rental, whether in the capacity of owner, lessee, sub-lessee, or mortgagee in possession.
- (4) Owner means as defined in section 1-2 of this Code.
- (5) Remuneration means compensation, money, rent, or other consideration given in return for occupancy, possession or use of real property.
- (6) Rent means the consideration charged, whether or not received, for the occupancy of space in a residential rental, valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature, without any deductions therefrom whatsoever.
- (7) Short-term residential rental means a dwelling unit or ~~one-bedroom~~ **single-booking** within a dwelling unit including either a single-family detached or multiple-family attached unit, rented for the purpose of overnight lodging for a period of not less than one night nor more than 29 consecutive days to the same person or persons
- (8) Sleeping unit as defined by the International Building Code, 2015, and as amended, means a room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.
- (9) Third-party internet listing service means an internet-based (or online) marketplace that connects owners of short-term residential rentals to potential renters by way of a website and in exchange for a service fee. Third-party listing agent shall not mean local contact person or managing agency or agent as defined in this chapter.

(10) Short-Term Rental Occupant(s) a transient person or group of transient persons in which lodging is provided and offered for compensation.

- (d) Short-term residential rental permit required. No owner of a residential dwelling unit shall rent the unit for a short term without having a current valid short-term residential rental permit issued by the Village of Ruidoso. Short-term residential rental permits are issued to the owner for a period of one year and are non-refundable. **A permit shall not be issued until the application is verified for compliance and the property has passed a compliance inspection by the Village of Ruidoso staff.**
 - (1) Nothing contained within this section shall be construed to abridge the ability of bona fide neighborhood covenants and/or deed restrictions to be more restrictive than the regulations within this section. Such covenants and deed restrictions shall not be enforceable by the Village but remain the responsibility of property owners to ensure compliance within the applicable neighborhood.
- (e) Application for short-term residential rental permit. The dwelling unit owner or managing agency shall apply to the village for a short-term residential rental permit and supply, at a minimum, the following information:
 - (1) The name, address, email address and contact telephone numbers (including 24-hour emergency contact number) of the owner of the residential rental for which the permit is to be issued.
 - (2) The name, address, email address and contact telephone numbers (including 24-hour emergency contact number) of the agent, representative or local contact person for the owner of the residential rental.
 - (3) The maximum number of occupants and vehicles that the dwelling unit can accommodate.
 - a. The parking calculation shall be based upon a minimum of one off-street parking space provided per sleeping unit. Properties offering a ~~single-room~~ **single-booking** rental must also meet parking requirements ~~as set forth in section 54-141(e)(1) a.~~
 - b. The occupancy per sleeping unit shall be ~~determined by the floor area of each sleeping unit, number of restrooms per dwelling unit, infrastructure suitable to service the occupants and shall be in accord with~~

~~habitable and occupancy codes contained within the duly adopted Code or successor as required per section 22-31(a).~~ **no more than 2 adults per sleeping unit of the dwelling unit.**

~~(4) An application fee of \$50.00 per year.~~

~~(5)-(4)~~ Compliance inspections are required on all short-term permits **and shall be inspected annually.** ~~The inspections are valid for biennial (every two years), and the fee is \$40.00.~~

After a permit is **reviewed for compliance** ~~issued the compliance~~ an inspection will be conducted by Village of Ruidoso staff ~~no later than 30 days.~~ **at a time scheduled by the property owner, agent, or representative.**

If the property is not in conformance with the compliance requirements at the time of the inspection, a correction notice will be issued, and a reinspection fee may be assessed ~~of \$40.00~~ if the inspector is required to return.

The compliance inspection shall meet the following requirements:

- a. An ABC type fire extinguisher(s) minimum of 3 lbs. maximum of 5 lbs. to be mounted at points of egress which lead to a public way, with at least one provided per floor and minimum one per dwelling unit with at least two per dwelling unit if greater than 1,000 square feet, top of the extinguisher to be mounted at a height not lower than 48 inches and not greater than 60 inches from the floor. Extinguishers must be inspected and maintained according to state requirements and must properly display the inspection history of the device.
- b. Approved (and working) smoke alarms installed as per manufacturer's instructions in every room used for sleeping and in the vicinity of each room used for sleeping, in compliance as required per section 22-31(a) of this Code and on every level of the home, including the basement.
- c. Every sleeping room and living area with access to a primary means of escape shall provide a clear, unobstructed path of travel to the outside. Sleeping areas must meet the requirements of egress as defined by the International Building Code and in compliance with the International Fire Code. All sleeping areas must have windows no less than 20 inches wide by 24 inches tall, the height of the window from the floor cannot be more than 44 inches. Any means of egress with more than 20 feet from egress to ground must provide an emergency ladder or steps.
- d. ~~Where approved, an open fire permit in accordance with section 42-42 of the Village of Ruidoso Code of Ordinances shall be posted at, or immediately adjacent to the primary entrance to the building.~~ Outdoor cooking appliances shall be properly maintained and notification visibly posted for their permissive use in accordance with section 42-42. Indoor fireplaces shall be properly maintained and inspected by a qualified person as necessary. **Any property being used as a short-term rental will be restricted from obtaining a fire-pit permit and any outdoor burning will be prohibited at all times.**
- e. Authority for code compliance inspection. By submitting application, the owner authorizes the Ruidoso Fire Department, the village code enforcement officer or other designated village employee or representative to conduct a code compliance inspection of the residence at intervals deemed appropriate by the village, or if deemed necessary when it is alleged or suspected that a violation of this section may exist or have occurred.

f. A NOAA-approved emergency notification device shall be provided in each unit and placed in clear view.

~~(6) Owner/agent authorization.~~

~~(7)~~ **(6) Business registration and taxes. is not required if**

~~Business registrations are \$35.00 and are required for anyone conducting business within the Village of Ruidoso.~~

~~If an owner rents, lists, or books their property with a managing agency, a business registration is not required.~~

If a property owner rents, lists, or books their property without a managing agency, a business registration is required.

~~(8)~~ **(7)** Notification to adjacent property owners shall be required for all short-term rental permits.

The notification fee is \$25.00. The staff of the Village of Ruidoso will notify all property owners within 200 feet of the permitted property notifying the intent to use their home as a short-term rental, and the name and number of the local contact person.

Managing agent may opt out to perform this task by certifying compliance with the notifications. If the managing agent opts out to perform this task, the \$25.00 fee will not be charged.

The Village shall mail a postcard to all property owners in the Village limits on August 1 and February 1 of each year notifying them of the availability of information regarding the location and contact information for all permitted short-term rental properties in the Village. This information will be maintained on either the Village website or on a third-party website.

~~(9)~~ **(8)** The owner or managing agent/agency shall attest that they have met these requirements in each property registered as part of the initial rental registration and each successive renewal registration. ~~The form utilized to attest to these requirements shall be part of the registration form provided by the village and be authenticated by a notary public.~~ **Managing agents shall be required to supply a copy of the contract showing the address of the dwelling unit and the property owners' signature on an annual basis.**

~~(f)~~ Application renewal or update. Prior to the expiration of the permit or when there is a change to the information contained in the permit regarding ownership, changes in the structure or parking area, or contact person, a new permit application shall be submitted. A transfer fee of \$10.00 **as set forth in Appendix A shall be assessed for property owners transferring the permit from a Managing agency to themselves a compliance inspection and reinspection fee will be assessed at the time of transfer. If a property is transferred from one Managing Agency to another a new permit and inspection will be required.**

~~(g)~~ **Discontinuation of use as a short-term rental property. Should the dwelling unit owner intend to discontinue short-term residential rental of the property, a statement to that effect shall be filed with the Village and the permit will be closed. Should the property owner decide to resume the use of the property as a short-term rental, a new permit must be obtained from the Village.**

~~(g)~~ ~~(h)~~ Fees. Fees are set forth in appendix A to this Code. ~~The initial application fee sufficient to cover the cost of processing the application, reviewing the information submitted, and issuing a revised permit.~~

~~(h)~~ **(i)** Review of application and issuance of permit.

(1) The village shall complete the review of the initial permit application within fifteen business days. Renewals notifications of all permits shall occur 60 days prior to renewal. ~~Such permits that are active at the time of this ordinance adoption shall not need to be prorated if extending their expiration to coincide with the new renewal date.~~

(2) Once the application review is complete, the village shall notify the applicant of the decision of whether or not to issue the permit based on compliance with this section. If approval is granted, the village will issue a short-term residential rental permit specifying the maximum number of cars and the maximum number of occupants allowed. Failure to renew the permit within 30 days after the ~~applicable first day of August~~ **permit's expiration date** shall subject the owner to payment of a late permit renewal penalty fee.

(3) An application for permit or renewal application shall be denied if:

- a. All applicable fees and taxes have not been paid, including lodgers' taxes as provided under chapter 78, article II of the Village of Ruidoso Code of Ordinances; or
- b. Outstanding property nuisance or building code violations exist on the property; or

- c. The applicant has not met the fuels management certification requirements of section 42-80, or as amended, of the Village of Ruidoso Code of Ordinances; or
- d. ~~The owner of the property is not compliant with subsection (h)(6)(5) herein and has exceeded the number of adjudicated citations afforded under that subsection.~~

d. The property is delinquent in payment of Village utilities.

- (4) The Village of Ruidoso recommends all property owners to purchase short-term rental insurance.
- (5) Failure to comply with any provision of chapter 78 of the Village of Ruidoso Code of Ordinances may result in a ~~revocation~~ **suspension** of the permit for a 12-month time period at the discretion of the ~~planning director~~ **Community Development Director until the delinquent taxes are paid in full. There shall be no short-term rentals allowed during the time of suspension.**
- (6) ~~If the dwelling unit owner plans to discontinue short term residential rental of the property, a statement to that effect shall be filed with the village and the permit will be revoked.~~

(7) Permit Revocation Process:

- ~~— a. In the event that two or more citations for violations of village ordinances at a specific short term dwelling unit result in convictions in the Village of Ruidoso Municipal Court within a 12-month time period, or in the event that three or more citations for violations of village ordinances issued at a specific short term dwelling unit result in convictions in the Village of Ruidoso Municipal Court within a 36-month time period, the planning director shall revoke the permit of a period of 12 months. After that time, the property owner may reapply for a new short-term rental license after paying all applicable fees. A warning letter shall be sent to the property owner after the first conviction. Violations shall also be subject to section 1-6 of the Code for each conviction.~~
- ~~— b. Notwithstanding the provisions of section 541-106(h)(6)a. above, citations issued within a 24-hour period at the same short term dwelling unit that result in more than one conviction in the Village of Ruidoso Municipal Court shall be counted as only one conviction.~~

(i) Tenant notification requirements. Each short-term residential rental unit shall have a clearly visible and legible notice posted by the owner or managing agency or agent within the unit on or adjacent to the interior of the front door containing the following information:

- (1) A copy of the short-term residential rental permit.
- (2) The name of the managing agency, agent, property manager, local contact person or owner of the unit, and a telephone number at which that party can be reached on a 24-hour, seven days a week basis.
- (3) The maximum number of occupants three years of age and older permitted to stay in the unit.
- (4) The maximum number of vehicles allowed to be parked on the property.
- (5) The number of on-site parking spaces and the parking rules for seasonal snow removal (if applicable).
- (6) The specific procedures regarding the disposal of trash and refuse.
- (7) A notification that an occupant may be cited and fined for creating a disturbance and/or for violating other provisions of the Village of Ruidoso Municipal Code.
- (8) Notice that noise provisions contained in the Village of Ruidoso Municipal Code section 38-31 will be enforced.
- (9) Notification that the Village of Ruidoso Municipal Code prohibits ground fires, campfires, fire rings and fire pits ~~other than by permit.~~ **at any short-term rental property within the Village limits.**
- (10) The 911 address for the property.
- (11) Notice that animal leash laws contained in section 14-8 (prohibited acts; animal nuisances; vicious or dangerous animals) will be enforced.

- (12) Notification that the Village of Ruidoso Municipal Code section 42-40 makes it "unlawful for any person to discard a lit cigarette, cigar, match or other type of incendiary material."
- (13) Link to online information regarding short-term rentals and how to make a complaint regarding another property in the vicinity causing a nuisance.**
- (14) Information on how to register to receive local emergency alerts.**
- (15) Any additional health and safety information provided by the Village of Ruidoso to protect lives and property.**
- ⌘ **(k)** Exterior advertising or signage. Exterior signage on short-term rental units which indicate availability, phone numbers or other type of information is prohibited. For the purposes of this section, signage shall only be permitted if it includes the name of the dwelling unit or owner's name and does not include advertisement of the property.
- (l) Permit Suspension and Revocation Process**
- (1) The Community Development Director shall suspend the permit for any property having three (3) unresolved issues within a 12-month period.**
- (2) Unresolved issues include the following:**
- (a) Occupancy beyond number allowed by permit reported to the Village or third-party monitoring agency;**
- (b) Vehicles parked on property beyond number allowed by permit reported to Village or third-party monitoring agency;**
- (c) Noise violation reported to Village or third-party monitoring agency;**
- (d) Failure of local contact to respond to an alleged occupancy, parking, noise, or outdoor burning violation within 30 minutes when contacted via telephone, email, or text message by the Village or third-party monitoring agency.**
- (3) Occupancy, parking, and noise issues shall be considered unresolved if not rectified within 90 minutes from the time the Village has contacted the emergency contact for the property.**
- (4) The failure of the local contact to respond within 30 minutes is an automatic unresolved issue.**
- (5) Illegal use of a fire-pit or outdoor burning reported to Village or third-party monitoring agency and confirmed by the Village ~~will~~ shall result in an automatic suspension of the permit and initiation of permit revocation;**
- (6) A written notice of each unresolved issue and permit suspension shall be provided to the property owner and management company (if applicable) within 3 business days of the determination of an unresolved issue or suspension.**
- (7) A property may not be rented as a short-term rental during a period of suspension.**
- (8) The Community Development Director shall place on the next available regular ~~Governing Body~~ meeting of the Planning Commission a request for revocation of the permit upon suspension. The decision of the Planning Commission shall be considered a final decision, with no right of appeal to the Governing Body.**
- (9) The property owner and any other party may provide written testimony to the ~~Governing Body~~ Planning Commission for consideration no less than 7 days prior to the meeting date when the request for revocation is to be heard. Oral testimony may be provided by the property owner or any other party at the ~~Governing Body~~ Planning Commission meeting.**
- (10) The ~~Governing Body~~ Planning Commission shall hear and consider all testimony and make a determination by a majority of the membership present on the appeal to:**

a) Revoke the permit;

b) Reverse the determination of one or more of the unresolved issues leading to a reinstatement of the permit;

c) Table the appeal request to the next regular meeting.

(11) Any permit that is revoked by the ~~Governing Body~~ Planning Commission shall be prohibited from renting as a short-term rental for 365 days from the date when the permit was suspended by the Community Development Director.

(12) Should the ~~Governing Body~~ Planning Commission not render a decision on the request for revocation within 90 days of the suspension, the permit shall be reinstated by the Community Development Director and the number of unresolved issues be reset to zero.

(13) Penalties for violation of requirements of this section. In addition to any other penalties or fines authorized by the Village of Ruidoso Municipal Code, the owner of a short-term residential rental unit shall be required to pay a penalty as set forth in appendix A to this Code in order to obtain, retain or renew a short-term residential rental permit.

(1) a) Each day that an owner rents a unit for a short term without first obtaining a short-term residential rental permit or rents while permit is suspended is considered a separate violation of the Village of Ruidoso Municipal Code as provided for in section 1-6.

(2) b) The village code enforcement officer or other designated village employee or representative shall take action to correct the violation as provided for in this Code or state statute.

(3) c) The first suspected or observed violation of this section by the village may result in an initial warning notice requesting registration of the unregistered short-term residential rental unit in accordance with the provisions of this code without subject to penalty. Should the property owner fail to comply after receiving such initial notice from the village, penalties may be assessed as provide elsewhere in this Code in section 1-6, including the assessment of a registration fee twice the listed amount.

(Ord. No. 2009-06, 3-10-09; Ord. No. 2017-06, § 1, 5-9-17; Ord. No. 2019-01, 1-8-19; Ord. No. 2019-03, 3-12-19)

APPENDIX A—FEES, FINES, AND PENALTIES

Short-term residential rental permit:			
<u>a.</u> Application <u>Permit</u> fee per year	\$50 <u>\$565</u>		For a 1-year permit <u>Annually</u>
<u>b.</u> Compliance inspection certification for property owners not doing business with property managers	\$40		Biennial (every 2 years)
<u>b.</u> There shall be a Reinspection fee for properties that do not pass the compliance if inspector must return	\$40 <u>\$50</u>		
<u>c.</u> Business Registration Fee	\$35		Annually
Mailing notification to property owners in 2002 Managing agents may opt out paying this fee	\$25		Annually

d. <u>Late renewal penalty</u>	<u>\$300</u>	
e. Fee for registering an unregistered rental after continued noncompliance with warning notification	Twice listed amount in addition to fines and penalties <u>Two times the permit fee</u>	
f. Transfer Fee: Change in Property Manager or change in Property Owner i. <u>Change from one Management Company to another Management Company</u> ii. <u>Change from a Management Company to Self-Management</u> iii. <u>Change from Self-Management to Management Company.</u>	\$10 <u>\$100</u>	

This Ordinance shall be recorded upon adoption and become effective five days thereafter. at which time Ordinance Sec. 54-72 shall be repealed.

PASSED, APPROVED, AND ADOPTED on this 11th day of February 2025.

Lynn D. Crawford, Mayor

(SEAL)

ATTEST:

Yvonne Vigil, Village Clerk

AGENDA MEMORANDUM

Village of Ruidoso

AGENDA ITEMS - 2.

To:

Presenter(s): Ronald Sena, Village Manager

Meeting Date: March 24, 2026

Re: Discussion and Possible Action on Agreement between the Village of Ruidoso and Roso's Ristorante, to Operate a Full Service Restaurant at 118 Lakeshore Drive, Alto New Mexico.

Item Summary:

Discussion and Possible Action on Agreement between the Village of Ruidoso and Roso's Ristorante, to Operate a Full Service Restaurant at 118 Lakeshore Drive, Alto New Mexico.

Financial Impact:

Revenue of \$24,000 a year

Item Discussion:

Agreement between the Village of Ruidoso and Roso's Ristorante, to Operate a Full Service Restaurant at 118 Lakeshore Drive, Alto New Mexico.

Recommendations:

To Approve Agreement between the Village of Ruidoso and Roso's Ristorante, to Operate a Full Service Restaurant at 118 Lakeshore Drive, Alto New Mexico.

ATTACHMENTS:

[RFP #2026-007P Contract Roso's.pdf](#)

AGREEMENT TO OPERATE RESTAURANT

This agreement is made and entered into the 1st Day of April 1, 2026 by and between the Village of Ruidoso, a municipal corporation of the State of New Mexico, hereinafter called VILLAGE, and Roso' Ristorante., hereinafter called CONTRACTOR.

WITNESSETH:

WHEREAS the VILLAGE desires to contract for services **TO OPERATE A FULL-SERVICE RESTAURANT.**

WHEREAS the VILLAGE desires to engage the CONTRACTOR to render services as described in this Agreement, and the CONTRACTOR is willing to perform such services in accordance with the terms of this agreement incorporated by reference herein as though set forth in its entirety, and in accordance with all applicable federal, state and local laws; and

NOW, THEREFORE, in consideration of the conditions, premises and the covenant hereinafter contained the parties hereby agree as follows:

I. RECITALS

THE PARTIES enter this Agreement on the basis of the following recitals:

CONTRACTOR has represented and warranted to the Village that the CONTRACTOR possesses the necessary skill to provide such services and is willing to do so pursuant to the terms of this Agreement.

II. AGREEMENT

In consideration of the foregoing recitals and the covenants and promises contained herein the parties agree as follows:

CONTRACTOR is ready, able and willing to render the desired services to operate a full-service restaurant 118 Lakeshore Drive, Alto New Mexico for the Village pursuant to the authority conferred upon it by New Mexico statutes, and to render to the Village and its duly authorized officers and elected official's services to include, but not limited to:

1. SPECIFIC CONDITIONS AND TECHNICAL SPECIFICATIONS

Hours of operation: Contractor shall be open to the public Thursday and Monday 11 a.m. until 5 p.m. then Friday and Saturday 5 p.m. until 8 p.m. including all holidays, excluding Thanksgiving and Christmas.

Concession operation consists of selling food, drink items, fishing tackle, life preservers, bike rentals, boat rentals, and or other items identified for boating and fishing use at Alto Lake.

VILLAGE OF RUIDOSO ORDINANCE 2018-05 - All concessionaire operations at Alto or Alto Lake, approved by contract with the village, shall be exempt from licensing regulations, unless otherwise provided by contract.

Contractor Specifications:

1. Contractor shall comply will all local and state required boating regulations.
2. Contractor shall comply with all state and local laws concerning the sale of food items.
3. All signage supplied by the Vendor shall be preapproved by the Village, temporary in nature, of professional construction, and comply with Village of Ruidoso Ordinances.
4. The Village of Ruidoso Parks Department shall work with Contractor to provide visitor information including community events and activities.
5. Restrooms are to be maintained by Contractor in a sanitary manner.
6. Contractor shall, at its own expense, obtain and keep in force during the term of the contract the following insurance:
 - a. General Liability insurance in the amount of \$1,000,050.00 naming the Village of Ruidoso as additionally insured, submitted to the Village of Ruidoso, five days after the award of the contract.
 - b. Workers' compensation and Employee's Liability Insurance meeting the applicable requirements of the state of New Mexico.
 - c. The Contractor will be required to hold the Village harmless from any and all claims brought against it for any act occurring on or about the premises of which act are not the cause of the Village or any of its employees or agents. Contractor will be responsible for any and all attorney fees incurred by the Village in response or defense of such claims.
7. The Contractor shall work closely with the Village of Ruidoso Parks and Recreation Department Staff on hours of operation to assure that operations are open during programmed activities.
8. The Contractor shall provide necessary staff for operations.
9. The Contractor shall employ an adult staff member to supervise staff during all operating hours.
10. The Village of Ruidoso reserves the right to make available items for sale that the Contractor is not offering to the clientele.

11. The Village of Ruidoso reserves the right to enter into agreements with vendors not in direct competition with products or services being offered within this agreement.
12. The Village of Ruidoso reserves the right to schedule events at Alto Lake and request that the restaurant be operated during those events.
13. All improvements must be preapproved of by the Village of Ruidoso.
14. Contractor shall obtain any necessary State and Village permits and inspections, including approved method of FOG disposal (fats, oils, and greases), Environmental Health and Fire Department inspections prior to occupancy and addressing all conditions of the agreement. The Contractor agrees to pay for grease trap maintenance as required by the permitting agency.
15. The Contractor shall maintain, clean, and pick up litter in the interior and exterior of the Concession building and comply with Local Ordinances and State Regulations regarding the handling and sale of food items.
16. The Contractor shall be responsible for keeping the immediate area surrounding all concessions free of litter and presentable during the term of the contract.
17. The Village of Ruidoso Reserves the right to perform regular inspections and adherence to local ordinances as well as any items listed in the agreement.
18. The Contractor shall work with the Village of Ruidoso in the promotion and advertisement of all operations related to the agreement.
19. Utilities: The Contractor agrees to pay for all utilities utilized during the season of operation. The selected Contractor shall install and provide, at its own expense, all utility services required for operation. The Village Finance Department shall be responsible for invoicing the Contractor for all the Utilities including all applicable taxes.
20. Reporting of all sales shall be required for all retail goods. An independent report for all rentals, by a Village of Ruidoso approved method, shall also be provided with each payment. Reports shall be submitted along with the monthly payment. Payment shall be considered incomplete without the accompanying report.
21. Contractor shall keep and maintain, in accordance with the principles of good accounting practices, complete records of all gross revenues of every kind and nature received on or from the premises over which the Contractor has control. A monthly financial statement showing profit/loss shall accompany each payment.

2. COMPENSATION

- A. In lieu of rent in the amount of \$24,000.00 for the one-year term of this Agreement, Contractor shall pay to the Village of Ruidoso consideration in the minimum amount of \$24,000.00 during the term of this Agreement. Such consideration shall be paid in the form of improvements to the building and infrastructure on the premises. Such

improvements shall include, but are not limited to remodeling the premises at Contractor's sole expense. The improvements shall bring the building into compliance with all codes applicable to commercial restaurants. The improvements shall include, but not be limited to water and sewer systems, electrical systems and gas systems. Contractor shall provide to the Village of Ruidoso copies of all receipts for all improvements. On or before the fifth day of the month, Contractor shall provide to the Village of Ruidoso a monthly financial statement for the previous month showing profit/loss for all services provided pursuant to this Agreement. In the event that the costs of the improvements provided by Contractor do not amount to at least \$24,000.00, Contractor shall pay the Village the difference between the costs of the improvements and \$24,000.00.

- B. The New Mexico Gross Receipts Tax levied on the amounts payable under this Agreement shall be paid by the CONTRACTOR.
- C. Contractor shall be required to make all repairs and maintenance to the building and land that form the basis of this Agreement.

3. TERM

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED IN WRITING BY THE VILLAGE OF RUIDOSO COUNCIL. Contract terms - The term of this contract shall be from **April 1, 2026 through March 31, 2027.**

4. TERMINATION

This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) calendar days prior to the intended date of termination. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. THE PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE OTHER LEGAL RIGHTS AND REMEDIES AFFORDED THE STATE IN SUCH CIRCUMSTANCES AS THE CONTRACTOR'S DEFAULT/BREACH OF CONTRACT.

5. RENEWAL

The term of this Agreement is from **April 1, 2026 through March 31, 2027,** with the option to extend the contract for an additional three (3) years if mutually agreed upon by the Village of Ruidoso and the Contractor. In the event the Parties agree to extend the contract, prior to March 31, 2027, the Parties shall agree to the rate of compensation Contractor will pay the Village of Ruidoso and such compensation shall be due and owing on April 1, 2027.

6. INDEPENDENT CONTRACTOR

The CONTRACTOR is an independent contractor performing professional services for the Village of Ruidoso and is not an employee of the Village of Ruidoso. The CONTRACTOR shall not accrue leave, retirement, insurance, bonding, use of Village vehicles, or any other benefits afforded

to employees of the Village of Ruidoso as a result of this Agreement. The CONTRACTOR acknowledges that all sums received hereunder are personally reportable by it for income tax purposes as self-employment or business income and are reportable for self-employment tax.

7. ASSIGNMENT

The CONTRACTOR shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without prior written approval of the Village of Ruidoso,

8. SUBCONTRACTING

CONTRACTOR shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval from the Village.

9. RECORDS OF AUDIT

During the term of this Agreement and for three years thereafter, the CONTRACTOR shall maintain detailed records pertaining to the services rendered and products delivered. These records shall be subject to inspection by the Village of Ruidoso, the State Auditor and appropriate federal authorities. The Village of Ruidoso shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the Village of Ruidoso to recover excessive or illegal payments.

10. APPROPRIATIONS

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Village of Ruidoso for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Village of Ruidoso, this Agreement shall terminate upon written notice being given by the Village of Ruidoso to the Contractor. The Village of Ruidoso's decision as to whether sufficient appropriations are available shall be accepted by the CONTRACTOR and shall be final.

11. RELEASE

The CONTRACTOR, upon final payment of the amount due under this Agreement, releases the Village of Ruidoso, and its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this Agreement. The CONTRACTOR agrees not to purport to bind the Village of Ruidoso, unless the CONTRACTOR has express written authority to do so, and then only within the strict limits of that authority.

12. CONFIDENTIALITY

Any confidential information provided to or developed by the CONTRACTOR in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the CONTRACTOR without prior written approval by the Village Manager.

13. CONFLICT OF INTEREST

The CONTRACTOR warrants that he presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The CONTRACTOR shall comply with any applicable provisions of the New Mexico Governmental Conduct Act and the New Mexico Financial Disclosures Act.

14. AMENDMENT

This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto.

15. SCOPE OF AGREEMENT

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written Agreement. No prior agreement or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

16. NOTICE

The Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil and misdemeanor criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kickbacks.

17. EQUAL OPPORTUNITY COMPLIANCE

The CONTRACTOR agrees to abide by all Federal and State laws, rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws, rules, and regulations, and executive orders of the Governor of the State of New Mexico, the CONTRACTOR agrees to assure that no person in the United States shall on the grounds of race, color, religion, national origin, sex, sexual preference, age or handicap, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under, any program or activity performed under this Agreement. If CONTRACTOR is found to be not in compliance with these requirements during the life of this Agreement, CONTRACTOR agrees to take appropriate steps to correct these deficiencies.

18. INDEMNIFICATION

The CONTRACTOR shall hold the Village of Ruidoso and employees harmless and shall indemnify the Village of Ruidoso against any and all claims, suits, actions, liabilities and costs of any kind, including CONTRACTOR's fees for personal injury or damage to property arising from the acts or omissions of the contractor, its agents, officers, employees or subcontractors. The

CONTRACTOR shall not be liable for any injury or damage as a result of any negligent act or omission committed by the Village of Ruidoso, its officers or employees.

19. APPLICABLE LAW

This Agreement shall be governed by the laws of the State of New Mexico.

20. INCORPORATION BY REFERENCE AND PRECEDENCE

This Agreement is derived from (1) the Request for Quotes, written clarifications to the Request for Quotes and Village of Ruidoso response to questions; (2) the CONTRACTOR's Best and Final Offer, and (3) the CONTRACTOR's response to the Request for Quotes.

In the event of a dispute under this Agreement, applicable documents will be referred to for the purpose of clarification or for additional detail in the following order of precedence: (1) Amendments to the Agreement in reverse chronological order; (2) the Agreement, including the Scope of Work; (3) the CONTRACTOR's Best and Final Offer: the Request for Quotes, including attachments thereto and written responses to questions and written clarifications and (5) the CONTRACTOR's response to the Request for Quotes.

21. KICKBACK STATEMENT

The State of New Mexico's Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil and criminal penalties for this violation. In addition, New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks. As required by Section 13-1-191, NMSA, 1978, it is a third-degree felony under New Mexico law to commit the offense of bribery of a public officer or public employee (Section 30-24-1, NMSA, 1978); it is a third-degree felony to commit the offense of demanding or receiving a bribe by a public officer or public employee (Section 30-24-2, NMSA, 1978); it is a fourth-degree felony to commit the offense of soliciting or receiving illegal kickbacks (Section 30-41-1, NMSA, 1978); it is a fourth-degree felony to commit the offense of offering or paying illegal kickbacks (Section 30-41-2), NMSA, 1978).

22. NON-COLLUSION

In signing this Quote or proposal, the CONTRACTOR certifies that the accompanying Quote or proposal is not the result of, or affected by, any unlawful act of collusion with any other person or company engaged in the same line of business or commerce, or any other fraudulent act punishable under New Mexico or United States law.

23. NON-DISCRIMINATION

Contractor, during the performance of this contract, will not discriminate against any employee or applicant for employment because of race, color, religion, creed, political ideas, sex, national origin, age, marital status or physical or mental disability except where such is a bona fide

occupational qualification reasonably necessary to the normal operation of the contractor. By signing and submitting a proposal, Contractor agrees to comply with this paragraph.

24. CAMPAIGN DISCLOSURE FORM

Pursuant to Chapter 81, Laws of 2006, any prospective contractor (engineer or CONTRACTOR) seeking to enter into a contract with any state agency or local public body must file a Campaign Contribution Disclosure Form with that state agency or local public body. This form must be filed by the prospective contractor with their response to the request for proposals. The prospective contractor must disclose whether they, a family member or a representative of the prospective contractor has made a campaign contribution to an applicable public official of the state or a local public body during the two years prior to the date on which the contractor submits a proposal

25. THIRD PARTY BENEFICIARIES

It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions or any part of the Agreement to create in the public or any member thereof a third party beneficiary or to authorize anyone not a party to this Agreement to maintain any suit for wrongful death, bodily or personal injury, damage to property or any other matter whatsoever pursuant to the provisions of this Agreement.

26. MERGER

This Agreement incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and understandings have been merged into this written Agreement. No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

27. INVALID TERM OR CONDITION

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

28. ENFORCEMENT OF AGREEMENT

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

29. DEBARMENT AND SUSPENSION

Pursuant to 45 C.F.R. Part 76, the CONTRACTOR certifies by signing this Agreement, that it and its principals, to the best of its knowledge and belief: (1) are not debarred, suspended, proposed

for debarment, or declared ineligible for the award of contracts by any Federal department or agency; (2) have not, within a three-year period preceding the effective date of this Agreement, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; (3) have not been indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated above in this Article 25.1; (4) have not, within a three-year period preceding the effective date of this Agreement, had one or more public agreements or transactions (Federal, State or local) terminated for cause or default; and (5) have not been excluded from participation from Medicare, Medicaid or other federal health care programs pursuant to Title XI of the Social Security Act, 42 U.S.C. § 1320a-7.

The CONTRACTOR's certification in Article 25.A is a material representation of fact upon which the Agency relied when this Agreement was entered into by the parties. The CONTRACTOR shall provide immediate written notice to the Agency's Contract Administrator if, at any time during the term of this Agreement, the CONTRACTOR learns that its certification in Article 25.A was erroneous on the effective date of this Agreement or has become erroneous by reason of new or changed circumstances. If it is later determined that the CONTRACTOR's certification in Article 25.A was erroneous on the effective date of this Agreement or has become erroneous by reason of new or changed circumstances, in addition to other remedies available to the Agency, the Agency may terminate the Agreement.

As required by 45 C.F.R. Part 76, the CONTRACTOR shall require each proposed first-tier subcontractor whose subcontract will equal or exceed \$25,000, to disclose to the CONTRACTOR, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by any Federal department or agency. The CONTRACTOR shall make such disclosures available to the Agency when it requests subcontractor approval from the Agency pursuant to Article 8. If the subcontractor, or its principals, is debarred, suspended, or proposed for debarment by any Federal department or agency, the Agency may refuse to approve the use of the subcontractor.

30. LOBBYING

No federal appropriated funds can be paid or will be paid, by or on behalf of the CONTRACTOR, or any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, or the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, or modification of any Federal contract, grant, loan, or cooperative agreement. If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection of this federal

contract, grant, loan, or cooperative agreement, the CONTRACTOR shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

31. SUCCESSION

This agreement shall extend to and be binding upon the successors and assigns of the parties.

32. IMPRACTICALITY OF PERFORMANCE

A party shall be excused from performance under this agreement for any period that the party is prevented from performing as a result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party has prudently and promptly acted to take any and all steps that are within the party's control to ensure performance. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination.

33. NOTICES

All notices under this Agreement shall be sufficient if sent by United States First Class Mail, postage Prepaid to:

CONTRACTOR:

Roso's Ristorante
522 Sudderth Dr
Ruidoso, NM 88345

VILLAGE:

Village of Ruidoso
313 Cree Meadows Drive
Ruidoso, New Mexico 88345

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of this _____ day of _____ 2024.

VILLAGE OF RUIDOSO

Roso's Ristorante

Lynn Crawford, Mayor

Date: _____

By: _____

Its: _____

Date: _____

(SEAL)

Attest:

Yvonne Vigil, Village Clerk

Date: _____

AGENDA MEMORANDUM

Village of Ruidoso

AGENDA ITEMS - 3.

To:

Presenter(s): Isabel Martinez, Public Works Administrative Specialist

Meeting Date: March 24, 2026

Re: Discussion and Possible Action on Adoption of Resolution 2026-18, a Resolution Authorizing the Village of Ruidoso to Submit an Application to the New Mexico Finance Authority to Participate in the Local Government Planning Fund.

Item Summary:

Discussion and Possible Action on Adoption of Resolution 2026-18, a Resolution Authorizing the Village of Ruidoso to Submit an Application to the New Mexico Finance Authority to Participate in the Local Government Planning Fund.

Financial Impact:

None.

Item Discussion:

Adoption of Resolution 2026-18, a Resolution Authorizing the Village of Ruidoso to Submit an Application to the New Mexico Finance Authority to Participate in the Local Government Planning Fund.

Recommendations:

To Approve Adoption of Resolution 2026-18, a Resolution Authorizing the Village of Ruidoso to Submit an Application to the New Mexico Finance Authority to Participate in the Local Government Planning Fund.

ATTACHMENTS:

[Resolution 2026-18 - Edited.pdf](#)

RESOLUTION NO. 2026-18

AUTHORIZING AND APPROVING SUBMISSION OF A COMPLETED APPLICATION FOR FINANCIAL ASSISTANCE AND PROJECT APPROVAL TO THE NEW MEXICO FINANCE AUTHORITY

WHEREAS, the Village of Ruidoso is a duly organized Municipality created and formed pursuant to County of Lincoln authorizing the incorporation of the Village of Ruidoso on November 15, 1945, by order and proceedings of the County Commissioners of Lincoln County and is a qualified entity under the New Mexico Finance Authority Act, Sections 6-21-1 through 6-21-31, NMSA 1978 ("Act"); and

WHEREAS, the New Mexico Finance Authority ("Finance Authority") is authorized pursuant to the Act, particularly Section 6-21-6.4 of the Act, to make grants from the local government planning fund (the "Fund") to qualified entities to evaluate and estimate the costs of implementing feasible alternatives for meeting water and wastewater public project needs or to develop water conservation plans, long-term master plans or economic development plans; and

WHEREAS, pursuant to the Act the Finance Authority has developed an application procedure whereby the Governing Body may submit an application ("Application") to the Finance Authority for planning grant financial assistance from the Fund; and

WHEREAS, the Village of Ruidoso desires to submit an Application for financial assistance from the Fund for a Planning Document, as defined in the Rules Governing the Local Government Planning Fund currently in effect and as specifically identified below, for the benefit of the Governmental Unit; and

WHEREAS, the Governing Body intends to submit the Planning Document for the Completion of an Asset Management Plan for the benefit of the Governmental Unit and its citizens; and

WHEREAS, the application prescribed by the Finance Authority to finance the Planning Document in whole with financial assistance from the Fund has been completed, submitted to, and reviewed by the Governing Body, and this Resolution approving submission of the completed Application to the Finance Authority for its consideration and review is required as part of the Application.

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY:

Section 1. That all lawful actions previously taken by the Governing Body and the Governmental Unit and their respective officers and employees in connection with the Application and the Project are hereby ratified, approved and confirmed.

Section 2. That the completed Application submitted to the Governing Body is hereby approved and confirmed.

Section 3. That the officers and employees of the Governmental Unit are hereby directed and requested to submit the completed Application to the Finance Authority and are further authorized to take such other action as may be requested by the Finance Authority in connection with the Application and to proceed with arrangements for financing the Project.

Section 4. All acts and resolutions in conflict with this Resolution are hereby rescinded, annulled and repealed.

Section 5. This Resolution shall take effect immediately upon its adoption.

PASSES APPROVED AND ADOPTED this 24th day of March 2026

Village of Ruidoso

By _____
Lynn D. Crawford, Mayor

(Seal)

ATTEST:

Yvonne Vigil, Municipal Clerk

AGENDA MEMORANDUM

Village of Ruidoso

AGENDA ITEMS - 4.

To:

Presenter(s): Ronald Sena, Village Manager

Meeting Date: March 24, 2026

Re: Discussion and Possible Action on Proposal from Rymarc Construction, Inc. for Roof Replacement on Two Existing Cabins and Exterior Repairs at 603 Mechem Dr. Utilizing NM GSD Statewide Price Agreement No. 30-00000-23-00070 in the Amount of \$90,202.72 Including NMGRT.

Item Summary:

Discussion and Possible Action on Proposal from Rymarc Construction, Inc. for Roof Replacement on Two Existing Cabins and Exterior Repairs at 603 Mechem Dr. Utilizing NM GSD Statewide Price Agreement No. 30-00000-23-00070 in the Amount of \$90,202.72 Including NMGRT.

Financial Impact:

The project will be budgeted out of the Affordable Housing Enterprise Fund's Capital - Outlay Building Improvements line item (507-520-53000) in the amount of \$90,203.00.

Item Discussion:

Proposal from Rymarc Construction, Inc. for Roof Replacement on Two Existing Cabins and Exterior Repairs at 603 Mechem Dr. Utilizing NM GSD Statewide Price Agreement No. 30-00000-23-00070 in the Amount of \$90,202.72 Including NMGRT.

Recommendations:

To Approve Proposal from Rymarc Construction, Inc. for Roof Replacement on Two Existing Cabins and Exterior Repairs at 603 Mechem Dr. Utilizing NM GSD Statewide Price Agreement No. 30-00000-23-00070 in the Amount of \$90,202.72 Including NMGRT.

ATTACHMENTS:

[Rymarc Proposal Cabin Roofs and Exterior.pdf](#)

RYMARC CONSTRUCTION, INC.
3440 Princeton Drive NE
Albuquerque, NM 87107

March 3, 2026

Village of Ruidoso
Ron Sena and Levi Beaty
313 Cree Meadows Drive
Ruidoso, NM 88345

RE: Mechem Drive -Two Existing Cabins Roof replacement and Exterior repairs

Rymarc Construction, Inc. proposes to accomplish the following items of work per our site visit:

Project Scope:

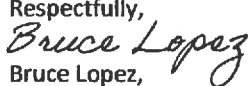
- Mobilize tools, labor and equipment and materials to project site
- Remove existing half log materials from one cabin at a time
- Install new Vapor barrier onto building/buildings
- Fur out exterior walls utilizing 1" x 2" wood strips
- Install new 4'x8' textured Hardie board onto fur out strips, texture wall panels to be placed at the top 4' of the wall to match new modular homes
- Install new Horizontal James Hardie Lap Siding on the lower 4' section of the building to match the new modular home style
- Install Vertical 1" x 2" wood battens onto textured Hardie board to match new modular homes match spacing of existing modular homes
- Caulk, primer and paint new siding, color to match new 2 tone modular siding
- Remove existing drip edge from roof
- Install new galvalume drip edge
- Install new galvalume roofing panels to match new modular homes roofing panels, will match profile
- Install closure strips top and bottom, ridge cap, rake trim, boots and caulk as required for a leak proof roof

Mobilization	\$ 12,400.00
Labor	\$25,522.00
Equipment	\$4,800.00
Materials	<u>\$27,745.00</u>
Total	\$70,467.00

Overhead 8%	\$5,637.36
Profit 8%	\$6,088.35
Bond @ 1.44%	\$ 1,183.58
NMGRT 8.1875%	<u>\$6,826.43</u>
Total	\$90,202.72

EXCLUSIONS: No Engineering, No as-built drawings, No Electrical, No Plumbing, No interior work, No window replacement, No Concrete work, No Structural work, No doors or garage doors work or replacement

For your convenience, this project can be issued under our NM GSD Statewide Price Agreement – General Construction Services Contract No. 30-00000-23-00070.

Respectfully,

Bruce Lopez,
President

Accepted By: _____ Date: _____

Name, Title

Village of Ruidoso-Mechem Drive- Two Existing Cabins Roof replacement and Exterior Repairs

ITEM	ITEM DESCRIPTION	LABOR RATE	LABOR HOUR	LABOR TOTAL	EQUIP RATE	EQUIP HOUR	EQUIP TOTAL	Materials Lump Sum	BARE TOTAL
1	<u>Mobilization- Equipment, Labor and materials</u>							12,400.00	12,400.00
2	<u>Labor</u>								
	Superintendent	50.00	65	3,250.00					3,250.00
	Foreman	50.00	192	9,600.00					9,600.00
	Laborer (2 x 33.00 = 66.00)	66.00	192	12,672.00					12,672.00
3	<u>Heavy Equipment</u>			-					
4	<u>Materials - Delivered to job site</u>							4,800.00	4,800.00
	James Hardie 4' x 8' textured exterior wall panel,(to match new modular homes). James Hardie Horizontal lap siding,(8.25" x 12') Exterior James hardie Trim board,(trim out windows, doors, etc.) Caulking, fastners, adhesive, Wall Vapor barrier, Primer, Paint. Includes both cabins.							15,900.00	15,900.00
	Metal Roofing Panels to match new modular home panels,Galvalume). Includes both cabins							6,400.00	6,400.00
	Metal Ridge Cap, drip edge, Rake Trim, Foam closures,(top/bottom)							4,350.00	4,350.00
5	Penetration Roof Boots/jacks, Fastners							500.00	500.00
6	Haul Off existing removed siding, all debris created by our work							595.00	595.00
	Total for Both units								70,467.00
								8%	5,637.36
									76,104.36
								8%	6,088.35
									82,192.71
								1.44%	1,183.58
								BOND	83,376.28
								NMGRT	6,826.43
								TOTAL	90,202.72

AGENDA MEMORANDUM

Village of Ruidoso

AGENDA ITEMS - 5.

To:

Presenter(s): Isabel Martinez, Public Works Administrative Specialist

Meeting Date: March 24, 2026

Re: Discussion and Possible Action on Proposal from Rymarc Construction Inc., for the Porr Drive/Brady Canyon Low Water Crossing Emergency Temporary Repair, Installing a Culvert and Relocating Sewer Line to Reduce Flooding Impacts, Utilizing NM GSD Statewide Price Agreement #30-00000-23-00070 in the Amount of \$403,939.00 Including NMGRT.

Item Summary:

Discussion and Possible Action on Proposal from Rymarc Construction Inc., for the Porr Drive/Brady Canyon Low Water Crossing Emergency Temporary Repair, Installing a Culvert and Relocating Sewer Line to Reduce Flooding Impacts, Utilizing NM GSD Statewide Price Agreement #30-00000-23-00070 in the Amount of \$403,939.00 Including NMGRT.

Financial Impact:

Project will be paid out of Loan Agreement #DRLF26-VOR-112025-900500 - NM DFA Local Government Division. Senate Bill 31 of the 2025 Regular Session of the New Mexico Legislature. FEMA-1783-4795-4886 DR-NM: Hurricane Dolly Flood, South Fork Fire and Monsoon 2025, Project will be budgeted in the FEMA Capital Projects Fund's Southfork Fire Departments, Monsoon 2025, and 2008 Hurricane Dolly, in Capital Outlay Projects line item (300-284-53006).

Item Discussion:

Rymarc Construction, Inc. proposes to accomplish the following items of work per site visit: Project Scope: Provide traffic control plan for approval. Mark areas of excavation and call in a NM 1- call. Set up pump for bypass pumping. Excavate and remove existing structures. Excavate all loose soft material from culvert installation area. Utilize Rip Rap to stabilize bottom of culvert area Once area is stable, install 1' thick pipe bedding and compact. Install 2- runs of 4' diameter corrugated culvert pipe. Backfill between/over pipe with Engineered Material. Form and install rebar reinforcement over new culvert pipe, (area: 30' x 70' x 6" thick) Place and finish 4,000 PSI with air concrete with thickened edge. Form, install rebar reinforcement on both inlet and outlet side of culvert, place 4,000 PSI concrete and finish concrete on compacted sloped areas. Relocate and reconnect existing sewer line and water line. Haul off all excess excavated materials to landfill. Install City Supplied Asphalt from

existing asphalt roadway to edge of new concrete apron on both sides. Existing road width is 30', will maintain the 30' width.

Recommendations:

To Approve Proposal from Rymarc Construction Inc., for the Porr Drive/Brady Canyon Low Water Crossing Emergency Temporary Repair, Installing a Culvert and Relocating Sewer Line to Reduce Flooding Impacts, Utilizing NM GSD Statewide Price Agreement #30-00000-23-00070 in the Amount of \$403,939.00 Including NMGRT.

ATTACHMENTS:

[Rymarc Construction Cover letter Porr Drive Brady Canyon Low water crossing.pdf](#)

[Rymarc Construction Estimate breakdown Porr Bradey low water.pdf](#)

RYMARC CONSTRUCTION, INC.

3440 Princeton Drive NE
Albuquerque, NM 87107

Village of Ruidoso
Attn: Ron Sena
313 Cree Meadows Drive
Ruidoso, NM 88345

RE: Porr Drive/Brady Canyon Low Water Crossing, Emergency Temporary Repair

Rymarc Construction, Inc. proposes to accomplish the following items of work per our site visit:

Project Scope:

Provide traffic control plan for approval. Mark areas of excavation and call in a NM 1- call. Set up pump for bypass pumping. Excavate and remove existing structures. Excavate all loose soft material from culvert installation area. Utilize Rip Rap to stabilize bottom of culvert area Once area is stable, install 1' thick pipe bedding and compact. Install 2- runs of 4' diameter corrugated culvert pipe. Backfill between/over pipe with Engineered Material. **Form and install rebar reinforcement over new culvert pipe, (area: 30' x 70' x 6" thick) Place and finish 4,000 PSI with air concrete with thickened edge.** Form, install rebar reinforcement on both inlet and outlet side of culvert, place 4,000 PSI concrete and finish concrete on compacted sloped areas. Relocate and reconnect existing sewer line and water line. Haul off all excess excavated materials to landfill. Install City Supplied Asphalt from existing asphalt roadway to edge of new concrete apron on both sides. Existing road width is 30', will maintain the 30' width.

Mobilization	\$4,000.00
Labor	\$65,860.00
Equipment	\$59,600.00
Traffic Control	\$ 2,650.00
Materials	<u>\$186,100.00</u>
Total	\$315,560.00

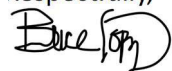
Overhead 8%	\$25,244.80
Profit 8%	\$27,264.38
Bond @ 1.44%	\$ 5,300.20
NMGRT 8.1875%	<u>\$30,569.62</u>
Total	\$403,939.00

EXCLUSIONS: No Engineering, No as-built drawings, No SWPPP, No Temporary Fencing, No permitting, No demo of any other portion or parts of the property.

For your convenience, this project can be issued under our NM GSD Statewide Price Agreement – General Construction Services Contract No. 30-00000-23-00070.

Please feel free to contact me at 575-781-0508, should you have questions on this proposal.

Respectfully,



Bruce Lopez, President

Accepted by: _____

Name, Title

Date

Porr Drive/Brady Canyon Low Water Crossing Emergency Temporary Repair Work

ITEM	ITEM DESCRIPTION	LABOR RATE	LABOR HOUR	LABOR TOTAL	EQUIP RATE	EQUIP HOUR	EQUIP TOTAL	Lump Sum	BARE TOTAL
1	Mobilization- Equipment, Labor and materials							4,000.00	4,000.00
2	Labor								
	Superintendent	50.00	80	4,000.00					4,000.00
	Foreman	50.00	180	9,000.00			-		9,000.00
	Equipment operator (3x 49.00 = \$ 147.00)	147.00	180	26,460.00			-		26,460.00
	Laborer (4 x 33.00 = 132.00)	132.00	180	23,760.00			-		23,760.00
	Water bypass pumping,(2- Laborers X 33.00 EA. = \$66.00)	66.00	40	2,640.00	150.00	40	6,000.00		8,640.00
	Heavy Equipment			-	335.00	160	53,600.00		53,600.00
3	Materials - Delivered to job site								
	4' diameter culvert pipe Encased with Flow Fill, 2- runs			-			-	63,450.00	63,450.00
	Reinforced Concrete Pavement roadway section (over pipes) 30' x 70' x 6" thick, Inlet/outlet rundown area			-			-	49,500.00	49,500.00
	Wire enclosed rip rap will be placed at outlet side of culvert and inlet side sloped areas, 134.2 CY			-			-	54,000.00	54,000.00
	Large fractured rock to stabilize creek bottom							2,500.00	2,500.00
	Existing 6" SDR-35 Sewer Line, Excavate and install new 20' joint and realign as required for proper 2% flow							8,500.00	8,500.00
	Existing 4" Schedule 40" PVC water line PVC Pipe Re-work to separate from line from sewer line and to clear new culverts, Cut and cap existing 2" poly water line. Tap existing 2" line and connect existing home as required.							5,500.00	5,500.00
4	Traffic Control, signs, set up, maintenace							2,650.00	2,650.00
	Total		660	65,860.00		200	59,600.00	190,100.00	315,560.00
							Overhead	8%	25,244.80
									340,804.80
							Profit	8%	27,264.38
									368,069.18
							BOND	1.44%	5,300.20
									373,369.38
							NMGRT	8.1875%	30,569.62
							TOTAL		403,939.00

AGENDA MEMORANDUM

Village of Ruidoso

AGENDA ITEMS - 6.

To:

Presenter(s): Isabel Martinez, Public Works Administrative Specialist

Meeting Date: March 24, 2026

Re: Discussion and Possible Action on Task Order #2026-001P-01 with Souder, Miller & Associates for Professional Engineering Services on the Design and Construction Observation of the Upper Canyon Diversion Reconstruction in the Amount of \$421,890.14 Including NMGRT.

Item Summary:

Discussion and Possible Action on Task Order #2026-001P-01 with Souder, Miller & Associates for Professional Engineering Services on Design and Construction Observation of the Upper Canyon Diversion Reconstruction in the Amount of \$421,890.14 Including NMGRT.

Financial Impact:

The Village was awarded an additional Water Trust Board (WTB) Grant for the Upper Canyon Diversion project in the amount of \$1,157,840. The funds are budgeted in the SGRT Special Revenue Fund's Capital Outlay - Projects line item (202-211-53006 Project #SG19101).

Item Discussion:

Discussion and Possible Action on Task Order #2026-001P-01 with Souder, Miller & Associates for Professional Engineering Services on Design and Construction Observation of the Upper Canyon Diversion Reconstruction in the Amount of \$421,890.14 Including NMGRT.

Recommendations:

To Approve Task Order #2026-001P-01 with Souder, Miller & Associates for Professional Engineering Services on Design and Construction Observation of the Upper Canyon Diversion Reconstruction in the Amount of \$421,890.14 Including NMGRT.

ATTACHMENTS:

[Task Order 2026-001P-01 and NMED Contract - Upper Canyon Flood Mitigation Project.pdf](#)

**TASK ORDER
FROM
VILLAGE OF RUIDOSO
TO
SOUDER, MILLER, & ASSOCIATES
FY2026**

1. **Task Order Number:** RFP #2026-001P-01
2. **Title:** Upper Canyon Diversion Reconstruction
3. **Project Number:** 6332807
4. **Location:** Ruidoso
5. **Scope of Services Required:** See attached proposal.
6. **Village Contact:** Levi Beaty
7. **Firm Contact:** Marty Howell
8. **Estimated Performance Time:** 13 months
9. **Estimated Cost:** \$421,890.14 including NMGR
10. **Attachments:** Proposal/NMED Contract
11. **The parties hereto executed the original Task Order on:** _____

Village of Ruidoso

Lynn D. Crawford, Mayor

Date: _____

SOUDER, MILLER, & ASSOCIATES



Marty Howell

Date: 03/20/2026

ATTEST:

Yvonne Vigil, Village Clerk

**AGREEMENTS FOR ENGINEERING SERVICES
(Publicly Funded Project)**

THIS Agreement, made this _____ day of March 2026 (effective date) by and between the Village of Ruidoso hereinafter referred to as the OWNER, and Souder, Miller & Associates, Inc. hereinafter referred to as the ENGINEER. This contract expires on _____, 2029.

The OWNER intends to construct a Project consisting of permitting, design and construction of flood mitigation improvements and Upper Canyon diversion structure improvements

in Lincoln County, State of New Mexico, which may be paid for in part with financial assistance from the United States of America acting through the United States Department of Agriculture – Rural Development, hereinafter referred to as USDA-RD; and/or through the United States Environmental Protection Agency, hereinafter referred to as EPA; and/or the New Mexico Environment Department, hereinafter referred to as NMED; and/or the New Mexico Finance Authority, hereinafter referred to as NMFA; and/or the New Mexico Department of Finance, hereinafter referred to as DFA; all collectively referred to as the Funding Agency. Neither the United States or the State of New Mexico nor any of its departments, agencies, or employees is or will be a party to this Agreement or any subagreement. The ENGINEER agrees to perform the various professional engineering services for the planning, design, and construction of said Project in accordance with the provisions of this Agreement.

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Authorization to proceed date: This _____ day of _____, 20_____
Contract Time shall be _____ calendar days from Authorization to proceed date. This phase expires on _____.
- ☒ Attachment III - Engineering Services During the Design Phase
Authorization to proceed date: This _____ day of _____, 2026
Contract Time shall be 268 calendar days from Authorization to proceed date. This phase expires on _____.

- ☒ Attachment IV - Engineering Services During the Construction Phase
Authorization to proceed date: This _____ day of _____, 20_____
Contract Time shall be _____ calendar days from Authorization to proceed date. This phase expires on _____.
- ☐ Attachment V - Engineering Services During the Operation Phase
Authorization to proceed date: This _____ day of _____, 20_____
Contract Time shall be _____ calendar days from Authorization to proceed date. This phase expires on _____.
- ☐ Attachment VI – Amendments to Agreements for Engineering Services
Authorization to proceed date: This _____ day of _____, 20_____
Contract Time shall be _____ calendar days from Authorization to proceed date. This phase expires on _____.
- ☐ _____

SECTION A – GENERAL PROVISIONS

1. General

(a) This Agreement represents the entire and integrated Agreement between the OWNER and the ENGINEER for the Project and supersedes all prior negotiations, representations or agreements, either written or oral. In the event, any provisions of this Agreement or any subsequent amendment shall be held to be invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provision, term, condition or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same by the other party. The General provisions of this Agreement supersede any conflicting SPECIAL PROVISIONS.

(b) The OWNER and the ENGINEER each is bound and the partners, successors, executors, administrators and legal representatives of the OWNER and the ENGINEER are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives of such other party, in respect to all covenants, agreements, and obligations of the Agreement. Neither the OWNER nor the ENGINEER may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in the Agreement without written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent of an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Unless expressly provided otherwise in this Agreement:

(1) Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by the OWNER or the ENGINEER to any Contractor, Contractor's subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them; and

(2) All duties and responsibilities undertaken pursuant to this Agreement will be for sole and exclusive benefit of the OWNER and the ENGINEER and not for the benefit of any other party.

(c) The ENGINEER will work closely with the OWNER to confirm all Funding Agency requirements are met.

(d) The ENGINEER will attend conferences and public hearings with the OWNER, at which representatives of the Funding Agency and interested parties will also be in attendance, and provide assistance in connection with such undertakings as provided for in the scope of work detailed in the Attachments.

2. Approvals

(a) This Agreement shall not become effective until reviewed and approved by the Funding Agency. Such approval shall be evidenced by the signature of a duly authorized representative of the Funding Agency in the space provided in the Attachments to this Agreement. The approval shall in no way commit the Funding Agency to render financial assistance to the OWNER. The Funding Agency is without liability for any payment hereunder, but in the event such assistance is provided, the approval shall signify that the provisions of this Agreement are consistent with the requirements of the Funding Agency.

(b) Review or approval of documents by or for the Funding Agency under this Agreement is

for administrative purposes only and does not relieve the ENGINEER or OWNER of their responsibilities to design, construct and operate the Project as required under law, regulations, permits and good management practices.

3. Responsibilities of the ENGINEER

(a) The ENGINEER shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of design drawings, specifications, reports, and other services furnished by the ENGINEER under this Agreement. If this Agreement involves environmental measures or data generation, the ENGINEER shall comply with EPA quality assurance requirements that can be found on their website at <http://www.epa.gov/quality/index.html>. The ENGINEER shall keep the OWNER informed of the performance of the ENGINEER'S duties under this Agreement. The ENGINEER shall, promptly and without additional compensation, correct or revise errors or omissions in the design drawings, specifications, reports, and other services provided by ENGINEER under terms of this Agreement.

(b) The ENGINEER shall perform the professional services necessary to accomplish the work specified in this Agreement, in accordance with this Agreement and applicable Funding Agency requirements in effect on the date of execution of any assistance agreement for this Project.

(c) The OWNER or Funding Agency review or approval of design drawings, specifications, reports, and other services furnished hereunder shall not in any way relieve the ENGINEER of responsibility for the technical adequacy of the work. Neither the OWNER nor Funding Agency review, approval or acceptance of, nor payment for any of the services shall be construed as a waiver of action arising out to the performance of this Agreement.

(d) The ENGINEER shall be, and shall remain, liable to the proportionate extent, in accordance with applicable law, for damages to the OWNER caused by the ENGINEER's negligent performance of any of the services furnished under this Agreement, except for errors, omissions or other deficiencies to the extent attributable to the OWNER or OWNER-furnished data. The ENGINEER shall not be responsible for any time delays in the Project caused by circumstances beyond the ENGINEER'S control.

(e) The ENGINEER'S opinions of probable Construction Cost are to be made on the basis of the ENGINEER'S experience and qualifications and represent ENGINEER'S best judgment as an experienced and qualified professional generally familiar with the construction industry. However, since the ENGINEER has no control over the cost of labor, materials, equipment, or services furnished by others, or over Contractor's methods of determining prices, or over competitive bidding or market conditions, the ENGINEER cannot and does not guarantee that proposals, bids, or actual Construction Cost and project schedules will not vary from opinions of probable Construction Cost prepared by the ENGINEER. If the OWNER wishes greater assurance as to probable Construction Cost, the OWNER shall employ an independent cost estimator.

(f) During the Construction Phase, the ENGINEER shall not at any time supervise, direct, or have control over the Contractor's work, nor shall the ENGINEER have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by the Contractor, for security or safety at the Site, for safety precautions and programs incident to the Contractor's work in progress, nor for any failure of the Contractor to

comply with Laws and Regulations applicable to the Contractor's furnishing and performing the Work.

(g) The standard of care of all professional engineering and related services performed or furnished by the ENGINEER under this Agreement will be the care and skill ordinarily used by members of subject profession practicing under similar circumstances at the same time and in the same locality. The ENGINEER makes no warranties, expressed or implied, under this Agreement or otherwise, in connection with the ENGINEER'S services.

(h) The ENGINEER's obligations under this clause are in addition to the ENGINEER's other express or implied assurances under this Agreement or State law and in no way diminish any other rights that the OWNER may have against the ENGINEER for faulty materials, equipment, or work.

4. Responsibilities of the OWNER

(a) The OWNER shall designate in writing a person authorized to act as the OWNER's representative. The OWNER or its representative shall receive and examine documents submitted by the ENGINEER, interpret and define the OWNER's policies and render decisions and authorizations promptly in writing.

(b) The OWNER shall be responsible for, and the ENGINEER may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by the OWNER to the ENGINEER pursuant to this Agreement. The ENGINEER may use such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement without responsibility for verifying accuracy of the OWNER furnished data and information.

(c) The OWNER shall provide to the ENGINEER full and free access to enter upon all property required for the performance of the ENGINEER's services under this Agreement.

(d) The OWNER may make and retain copies of documents for information and reference in connection with use on the Project by the OWNER. Such documents are not intended or represented to be suitable for reuse by the OWNER or others on extensions of the Project or on any other project. Any such reuse or modification without written verification or adaptation by the ENGINEER will be at the OWNER's sole risk and without liability or legal exposure to the ENGINEER. Any verification or adaptation as stated above, will entitle the ENGINEER to further compensation at rates to be agreed upon by the OWNER and the ENGINEER.

5. Changes

(a) The OWNER and the ENGINEER may, at any time, with prior approval of the Funding Agency, make changes within the general scope of this Agreement in the services or work to be performed. Any such change must be in writing and approved by both parties to this Agreement. If such changes cause an increase or decrease in the ENGINEER's cost or time required to perform any services under this Agreement, whether or not changed by any order, the OWNER shall make an equitable adjustment and modify this Agreement in writing. The ENGINEER must assert any claim for adjustment under this clause in writing within thirty (30) calendar days from the date it receives the OWNER's notification of change, unless the OWNER grants additional time before the date of final payment.

(b) No services for which the ENGINEER will charge an additional compensation shall be furnished without the written authorization of the OWNER.

(c) All changes to the scope, cost or time of this Agreement and services described in the Attachments must be in writing and documented in Attachment VI – Amendment to Agreements for Engineering Services.

6. Termination of Contract

(a) This Agreement may be terminated in whole or in part by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party. Any termination must be in writing. No such termination may be effected unless the other party is given: 1) not less than fourteen (14) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate; and 2) an opportunity to cure the default with the terminating party before termination.

(b) This Agreement may be terminated in whole or in part in writing by the OWNER for its convenience, provided that the ENGINEER is given: 1) not less than fourteen (14) calendar days written notice (delivered by certified, return receipt requested) of intent to terminate; and 2) an opportunity for consultation with the OWNER prior to termination.

(c) If termination for default is effected by the OWNER, an equitable adjustment in the price provided for in this agreement shall be made, but: 1) no amount shall be allowed for anticipated profit on unperformed services or other work; and 2) any payment due to the ENGINEER at the time of termination may be adjusted to cover any additional costs to the OWNER because of the ENGINEER's default. If the ENGINEER effects termination for default, or if the OWNER effects termination for convenience, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to the ENGINEER for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by the ENGINEER relating to commitments which had become firm prior to the termination.

(d) Upon receipt of a termination action under paragraphs (a) or (b) above, the ENGINEER shall: 1) promptly discontinue all affected work (unless the notice directs otherwise); and 2) deliver or otherwise make available to the OWNER within fourteen (14) calendar days copies of all data, design drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by the ENGINEER in performing this Agreement, whether completed or in process.

(e) Upon termination under paragraphs (a) or (b) above, the OWNER may take over the work and may award another party an Agreement to complete the work under this Agreement.

(f) If, after termination for failure of the ENGINEER to fulfill contractual obligations, it is determined that the ENGINEER had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of the OWNER. In such event, adjustment of the Agreement price shall be made as provided in paragraph 6(c) of this clause.

7. Payment

(a) The ENGINEER will submit to the OWNER for services rendered an itemized bill showing charges for such services accompanied by any additional documentation requested by the OWNER. Such invoices are limited to no more than one per month. Compensation will be based on the lump sum or standard hourly rate with a maximum method of payment as detailed

in the Attachments.

(b) The OWNER shall pay the ENGINEER applicable gross receipt taxes and reimbursable expenses at the rates set forth in the appropriate Attachment. The amounts payable to the ENGINEER for reimbursable expenses will be the project-related internal expenses, such as reproduction, and all invoiced external reimbursable expenses allocatable to the project, including consultants, multiplied by a factor of 1.1 (1.1 MAXIMUM). Mileage will be reimbursed at the current federally approved IRS rate. Mileage and per diem will not be multiplied by a factor. Reimbursable expenses shall not exceed the estimate in the Attachments without prior written approval of the OWNER, with Funding Agency concurrence. Copies of invoices from consultants, mileage logs, and receipts for which the ENGINEER is requesting reimbursement must accompany the ENGINEER'S invoice.

(c) The OWNER shall notify the ENGINEER of any disputed amounts in the invoices within fourteen (14) calendar days of receipt. If the OWNER contests an invoice, the OWNER may withhold only that portion so contested, and must pay the undisputed portion.

(d) Final Payment under this Agreement, or settlement upon termination of this Agreement, shall not constitute a waiver of the OWNER's claims against the ENGINEER under this Agreement.

(e) If the OWNER fails to make any payment due to the ENGINEER within forty-five (45) calendar days after the OWNER's receipt of the ENGINEER's invoice, the amount due to the ENGINEER shall be increased at the rate of 1.5% per month from said forty-fifth day. Any payment of interest under this contract is not reimbursable from grant or loan funds. In addition, after ten (10) calendar days' prior written notice, the ENGINEER may suspend services under this Agreement until the ENGINEER is paid in full. The OWNER waives any and all claims against the ENGINEER for any such suspension.

8. Time

(a) PROGRESS AND COMPLETION

1. The ENGINEER has prepared and the OWNER has approved a schedule for the performance of the ENGINEER's services. This schedule is reflected in the contract time(s) as detailed in the Attachment(s) and represents reasonable times in which to complete the services. The schedule includes reasonable times required for the OWNER and other applicable parties to the agreement to provide necessary information, provide any applicable services not included in the ENGINEER's Scope of Work and make decisions necessary for completion of the work. The schedule also includes reasonable allowances for review and approval times required by the OWNER and by public authorities having jurisdiction over the Project. The schedule shall be equitably adjusted as the Project progresses, allowing for changes in scope, character or size of the Project requested by the OWNER, or for delays or other causes beyond the ENGINEER's reasonable control.
2. The ENGINEER shall proceed expeditiously, consistent with professional skills, with adequate forces to achieve completion within the Contract Time.
3. The OWNER shall not be liable to the ENGINEER for additional time or money if the ENGINEER submits a progress report expressing an intention to achieve completion of the Work prior to the Contract Time and then is not able to achieve intended accelerated

schedule regardless of the reason.

4. If the ENGINEER is delayed at any time in the commencement or progress of the Work by an act or negligence of the OWNER, changes in the Work as agreed upon by the OWNER and the ENGINEER in writing, or other causes beyond the ENGINEER'S control, then the Contract Time may be extended per Section 5 of this Agreement. Extensions of time not associated with modifications or changes to the Work shall not be allowed to increase the Contract amount for overhead or for any other reason and shall strictly apply toward liquidated damages, as found in Subsection (b) of this Section.
5. The ENGINEER shall promptly notify the OWNER in writing of any conditions that may delay delivery of work beyond the Contract Time.
6. The OWNER shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the ENGINEER'S performance of its Services.

(b) CONTRACT TIME AND LIQUIDATED DAMAGES

1. The ENGINEER agrees that the Services being provided under this Agreement will be performed regularly, diligently and without interruption at such rate of progress as will provide for completion within the Contract Time. It is expressly understood and agreed, by and between the ENGINEER and the OWNER, that the Contract Time is a reasonable time for completion of the Services, taking into consideration the usual conditions for performing the Services. The ENGINEER agrees to promptly notify the OWNER of delays in completing the services under this Agreement that are beyond ENGINEER's control and for which a Contract Time extension will be requested. If the ENGINEER neglects, fails, or refuses to complete the Services within the Contract Time, including any time extension granted by the OWNER, then the ENGINEER agrees to pay the OWNER the amount specified in the Attachments, not as a penalty, but as liquidated damages.
2. The parties agree that the amount of the likely damages to the OWNER for such delay is difficult to ascertain at the time of execution of this Agreement, but that a reasonable estimate of such damages may be deducted from any monthly payments due to the ENGINEER, or from other monies being withheld from the ENGINEER, when a reasonable estimate of the expected date of completion can be determined by the OWNER.
3. Final accounting of liquidated damages shall be determined at completion and the ENGINEER shall be liable for any liquidated damages over and above unpaid balances held by the OWNER.
4. The OWNER and the ENGINEER agree that reasonable liquidated damages for delay (but not as a penalty) due from the ENGINEER to the OWNER are \$100.00 (minimum one-hundred dollars [\$100.00] per day) for each calendar day that expires after the Contract Time specified in the Agreement until the Work is complete and accepted by the OWNER. The OWNER shall have no more than ten (10) calendar days to accept or reject the Work.

9. Project Design

Unless otherwise approved by the OWNER and Funding Agency, the ENGINEER shall specify materials, equipment, and processes that are readily available through competitive procurement and consistent with State and Federal regulations.

10. Audits and Access to Records

(a) The ENGINEER shall maintain books, records, documents, and other evidence directly pertinent to performance on work under this Agreement in accordance with generally accepted accounting principles and practices consistently applied, and Funding Agency regulations in effect on the date of execution of this Agreement. The ENGINEER shall also maintain the financial information and data used by the ENGINEER in the preparation of the cost submission required under EPA regulations in effect on the date of execution for any negotiated agreement or amendment thereof. and a copy of the cost summary submitted to the OWNER. The Funding Agency, the Comptroller General of the United States, the U.S. Department of Labor, the OWNER, and the State water pollution control agency, or their duly authorized representatives, shall have access to such books, records, documents, and other evidence for inspection, audit, and copying during normal business hours. The ENGINEER will provide proper facilities for such access and inspection.

(b) The ENGINEER agrees to make paragraphs (a) through (f) applicable to agreements it awards in excess of \$10,000, at any tier, and to make paragraphs (a) through (f) of this clause applicable to all amendments directly related to Project performance.

(c) Audits conducted under this provision shall be in accordance with generally accepted auditing standards and established procedures and guidelines of the reviewing or audit agency(ies) and the General Accounting Office.

(d) The ENGINEER agrees to disclose all information and reports resulting from access to records under paragraphs (a) and (b) of this clause to any of the agencies referred to in paragraph (a) upon their request.

(e) Records under paragraphs (a) and (b) above shall be maintained and made available by the ENGINEER during performance of services under this Agreement and for three (3) years from the date of final Federal/State assistance payment to the OWNER for the Project. In addition, those records which relate to any controversy arising under this Agreement, litigation, the settlement of claims arising out of such performance or to costs or items to which an audit exception has been taken shall be maintained and made available by the ENGINEER until three (3) years after the date of resolution of such appeal, litigation, claim or exception.

(f) This right of access clause applies to financial records pertaining to agreements (except formally advertised, competitively awarded, fixed price agreements) and agreement amendments regardless of the type of agreement. In addition, this right of access applies to records pertaining to all agreements and agreement amendments:

1. To the extent the records pertain directly to Agreement performance; or
2. If there is any indication that fraud, gross abuse or corrupt practices may be involved; or
3. If the Agreement is terminated for default or for convenience.

11. Subcontracts

(a) Any subcontractors and outside associates or consultants required by the ENGINEER in connection with services under this Agreement will be limited to such individuals or firms as were specifically identified and agreed to during negotiations of this Agreement. The OWNER must give prior approval for any substitutions, additions or deletions to such subcontractors, associates, or consultants but will not dictate whom the ENGINEER must hire.

(b) The ENGINEER may not subcontract services to subcontractors or consultants in excess of thirty (30) percent of the total phased compensation due to the ENGINEER and detailed in the Attachments without prior written approval of the OWNER and funding agency.

12. Insurance

The ENGINEER agrees to obtain and maintain, at their expense, such insurance as specified in Attachment I.

13. Environmental Condition of Site

(a) The OWNER has disclosed to the ENGINEER in writing the existence of all known and suspected Asbestos, PCBs, Petroleum, Hazardous Waste, Radioactive Material, hazardous substances, and other Constituents of Concern located at or near the Site, including type, quantity, and location.

(b) The OWNER represents to the ENGINEER that to the best of its knowledge no Constituents of Concern, other than those disclosed in writing to the ENGINEER, exist at the Site.

(c) If the ENGINEER encounters an undisclosed Constituent of Concern, then the ENGINEER shall notify: 1) the OWNER; and 2) appropriate governmental officials if the ENGINEER reasonably concludes that doing so is required by applicable Laws or Regulations.

(d) It is acknowledged by both parties that the ENGINEER'S scope of services does not include any services related to Constituents of Concern. If the ENGINEER or any other party encounters an undisclosed Constituent of Concern, or if investigative or remedial action, or other professional services, are necessary with respect to disclosed or undisclosed Constituents of Concern, then the ENGINEER may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until the OWNER: 1) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the Constituents of Concern; and 2) warrants that the Site is in full compliance with applicable Laws and Regulations.

(e) If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of the ENGINEER'S services under this Agreement, then the ENGINEER shall have the option of: 1) accepting an equitable adjustment in its compensation or in the time of completion, or both; or 2) terminating this Agreement for cause on 30 calendar days' notice.

(f) Owner acknowledges that the ENGINEER is performing professional services for the OWNER and that the ENGINEER is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with the ENGINEER'S activities under this Agreement.

14. Mutual Waiver

To the fullest extent permitted by law, the OWNER and the ENGINEER waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project.

15. Independent Contractor

The ENGINEER will, at all times during the performance of this Agreement and in connection with the Services, be deemed to be an Independent Contractor. No relationship of employer-employee or agency or other fiduciary capacity is created by this Agreement or by the ENGINEER'S performance of the Services.

16. Equal Employment Opportunity

The ENGINEER shall comply with U.S. Executive Order 11246, entitled "Equal Employment Opportunity", as amended by U.S. Executive Order 11375, and as supplemented in Department of Labor regulations 41 CFR Part 60.

17. Gratuities

(a) If the OWNER find that the ENGINEER or any of the ENGINEER's agents or representatives offered or gave gratuities (in the form of entertainment, gifts, or otherwise), to any official, employee, or agent of the OWNER or the Funding Agency in an attempt to secure this Agreement, or favorable treatment in awarding, amending or making any determinations related to the performance of this Agreement, the OWNER may, by written notice to the ENGINEER, terminate this Agreement. The OWNER may also pursue other rights and remedies that the law or this Agreement provides. However, the existence of the facts on which the OWNER bases such findings shall be in issue and may be reviewed in proceedings under the Remedies clause of this Agreement.

(b) In the event this Agreement is terminated as provided in Subsection (a) of this Section, the OWNER may pursue the same remedies against the ENGINEER as it could pursue in the event of a breach of the Agreement by the ENGINEER. As a penalty, in addition to any other damages to which it may be entitled by law, the OWNER may pursue exemplary damages in an amount (as determined by the OWNER) which shall be not less than three nor more than ten times the costs the ENGINEER incurs in providing any such gratuities to any such officer or employee.

18. Covenant Against Contingent Fees

The ENGINEER represents that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the ENGINEER for the purpose of securing business. For breach or violation of this assurance the OWNER shall have the right to annul this Agreement without liability or, at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fees.

19. Cost and Pricing Data on Federally-funded Projects (delete section if not applicable)

The ENGINEER and its subcontractor(s) confirm that cost and pricing data submitted for

evaluation with respect to negotiation of prices for negotiated agreements, lower tier subagreements, or amendments are based on current, accurate, and complete data supported by their books and records. If the OWNER, or Funding Agency determines that any price (including profit) negotiated in connection with this Agreement, any lower tier subagreement, or any amendment thereunder was increased by any significant sums because the data provided was incomplete, inaccurate, or not current at the time of submission, then such price or cost or profit shall be reduced accordingly; and this Agreement shall be modified in writing to reflect such action. Failure to agree on a reduction shall be subject to the Remedies clause of this Agreement.

20. Remedies

Unless otherwise provided in this Agreement, all claims, counter-claims, disputes, and other matters in question between the OWNER and the ENGINEER arising out of or relating to this Agreement or the breach of it will be decided by non-binding mediation or arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the OWNER is located.

21. Assurance Against Debarment

The ENGINEER confirms that it and its subcontractors have not been suspended or debarred by EPA, USDA, or the State of New Mexico.

SECTION B –ENGINEERING SERVICES

The ENGINEER shall furnish ENGINEERING SERVICES as follows in accordance with the GENERAL PROVISIONS of the Agreement and as authorized by the appropriate Attachment to this Agreement:

1. The ENGINEER shall complete the ENGINEERING SERVICES described in Attachment II – Engineering Services During the Planning Phase within the time specified from the date of written authorization to proceed unless otherwise mutually agreed to in writing by both parties.
2. The ENGINEER shall complete the ENGINEERING SERVICES described in Attachment III – Engineering Services During the Design Phase within the time specified from the date of written authorization to proceed unless otherwise mutually agreed to in writing by both parties.
3. ENGINEER shall complete the ENGINEER SERVICES described in Attachment IV – Engineering Services During the Construction Phase within the time specified from the date of written authorization to proceed unless otherwise mutually agreed to by both parties.
4. The ENGINEER shall complete the ENGINEERING SERVICES described in Attachment V – Engineering Services During the Operation Phase within the time specified from the date of written authorization to proceed unless otherwise mutually agreed to in writing by both parties.

SECTION C – SPECIAL PROVISIONS OR MODIFICATIONS TO THE STANDARD LANGUAGE IN THIS AGREEMENT

(Mark those that apply or describe, attach or indicate “None”)

☐ None

1. The OWNER and ENGINEER agree that the contract time identified in each Attachment to this Agreement is considered met upon substantial completion of the Work associated with each Phase. Substantial completion is understood as submittal of a final draft of the required documentation and/or completion of tasks identified for each Phase. Liquidated damages shall not apply to the time required for final review and acceptance by the OWNER and/or the Funding Agency, and time required by the ENGINEER to make minor adjustments to the Work as requested by the OWNER, State regulatory agencies, or Funding Agency. The time required by the ENGINEER to make such minor adjustments however, shall not exceed 21 days, after which time liquidated damages as identified in Section A.8 shall apply.

2. The standard rates identified within each Exhibit to the present Agreement are effective as of the date of the Agreement and will be adjusted annually and submitted to the OWNER in the month of January of each subsequent year that the Agreement remains in force, to reflect equitable changes in the compensation payable to ENGINEER. The only rate that will be adjusted automatically with or without notification is the mileage rate which is tied to the current IRS rate as of the date of each invoice.

☐ For Planning Grant Funds from NMFA Insert the note: For Preliminary Engineering Reports or other documents paid for using NMFA Planning Grant Funds, the community can only submit one reimbursement request. This request for payment must be based on a final invoice and can only occur after the document is approved by the pertinent reviewing agency. Interim payments to the engineer will be at the discretion of the community as agreed upon in this contract.

☒ The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the OWNER may immediately terminate this Agreement by giving the ENGINEER written notice of such termination. The OWNER's decision as to whether sufficient appropriations are available shall be accepted by the ENGINEER and shall be final. The ENGINEER hereby waives any rights to assert an impairment of contract claim against the OWNER or NMED or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the OWNER or the Department

☒ This contract is funded in whole or in part by funds made available under a NMED Grant Agreement. Should the NMED early terminate the grant agreement, the OWNER may early terminate this contract by providing the ENGINEER written notice of such termination. In the event of termination pursuant to this paragraph, the OWNER's only liability shall be to pay the ENGINEER or vendor for acceptable goods delivered and services rendered before the termination date.

☐ MODEL CONTRACT CLAUSE FOR ENGINEERING AGREEMENTS
used for Clean Water State Revolving Fund (CWSRF) or Drinking Water State Revolving Fund (DWSRF) projects.

1. PRIVITY OF CONTRACT

This contract is expected to be funded in part with funds from the U.S. Environmental Protection Agency. Neither the United States nor any of its departments, agencies or employees is, or will be, a party to this contract or any lower tier contract. This contract is subject to the applicable EPA procurement regulations in effect on the date of the assistance award for this project.

2. CHANGES

1. The OWNER may at any time, by written order make changes within the general scope of this contract in the services to be performed. If such changes cause an increase or decrease in the ENGINEER'S cost or time required to perform any services under this contract, whether or not changed by any order, the OWNER shall make an equitable adjustment and modify this contract in writing. The ENGINEER must assert any claim for adjustment under this clause in writing within 30 days from the date it receives the OWNER'S notification of change, unless the OWNER grants additional time before the date of final payment.

2. No claim by the ENGINEER for an equitable adjustment shall be allowed if made after final payment under this contract.

3. No services for which the ENGINEER will charge an additional compensation shall be furnished without the written authorization of the OWNER.

3. TERMINATION

a. This contract may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this contract through no fault of the terminating party, provided that no termination may be effected unless the other party is given (1) not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate, and (2) an opportunity for consultation with the terminating party prior to termination.

b. This contract may be terminated in whole or in part in writing by the OWNER for its convenience, provided that the ENGINEER is given: 1) not less than ten (10) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate, and; 2) an opportunity for consultation with the terminating party prior to termination.

c. If termination for default is effected by the OWNER, an equitable adjustment in the price provided for in this contract shall be made, but: 1) no amount shall be allowed for anticipated profit on unperformed services or other work; and 2) any payment due to the ENGINEER at the time of termination may be adjusted to cover any additional costs to the OWNER because of the ENGINEER'S default. If the ENGINEER effects termination for default, or if the OWNER effects termination for convenience, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to the ENGINEER for services rendered and expenses incurred prior to the

termination, in addition to termination settlement costs reasonably incurred by the ENGINEER relating to commitments which had become firm prior to the termination.

d. Upon receipt of a termination action under paragraphs (a) or (b) above, the Engineer shall (1) promptly discontinue all affected work (unless the notice directs otherwise), and (2) deliver or otherwise make available to the Owner all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by the Engineer in performing this contract, whether completed or in process.

e. Upon termination under paragraphs (a) or (b) above, the Owner may take over the work and may award another party a contract to complete the work under this contract.

f. If, after termination for failure of the Engineer to fulfill contractual obligations, it is determined that the Engineer had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of the Owner. In such event, adjustment of the sub-agreement price shall be made as provided in paragraph (c) of this clause.

4. REMEDIES

Unless otherwise provided in this contract, all claims, counter-claims, disputes and other matters in question between the OWNER and the ENGINEER arising out of, or relating to, this contract or the breach of it will be decided, if the parties mutually agree, by arbitration, mediation, or other alternative dispute resolution mechanism; or in a court of competent jurisdiction within the State in which the OWNER is located.

5. AUDIT; ACCESS TO RECORDS

a. The ENGINEER shall maintain books, records, documents and other evidence directly pertinent to performance on EPA funded work under this contract in accordance with generally accepted accounting principles and practices consistently applied, and the applicable EPA regulations in effect on the date of execution of this contract. The ENGINEER shall also maintain the financial information and data used in the preparation or support of any cost submission required under applicable regulations for negotiated contracts or change orders and a copy of the cost summary submitted to the OWNER. The United States Environmental Protection Agency, the Comptroller General of the United States, the United States Department of Labor, the OWNER, and [the State] or any of their authorized representatives shall have access to all such books, records, documents and other evidence for the purpose of inspection, audit and copying during normal business hours. The ENGINEER will provide proper facilities for such access and inspection.

b. If this is a fixed price contract awarded through sealed bidding or otherwise on the basis of effective price competition, the ENGINEER agrees to make paragraphs (a) through (f) of this clause applicable to all negotiated change orders and contract amendments affecting the contract price. In the case of all other types of prime contracts, the ENGINEER agrees to make paragraphs (a) through (f) applicable to all contract awards in excess of \$10,000, at any tier, and to make paragraphs (a) through (f) of this clause applicable to all change orders directly related to project performance.

c. Audits conducted under this provision shall be in accordance with generally accepted auditing standards and with established procedures and guidelines of the reviewing or audit agency(ies).

d. The ENGINEER agrees to disclose all information and reports resulting from access to records under paragraphs (a) and (b) of this clause to any of the agencies referred to in paragraph (a).

e. Access to records is not limited to the required retention periods. The authorized representatives designated in paragraph (a) of this clause shall have access to records at any reasonable time for as long as the records are maintained.

f. This right of access clause applies to financial records pertaining to all contracts (except for fixed price contracts awarded through sealed bidding or otherwise on the basis of effective price competition) and all contract change orders regardless of the type of contract, and all contract amendments regardless of the type of contract. In addition, this right of access applies to all records pertaining to all contracts, contract change orders and contract amendments:

1. To the extent the records pertain directly to contract performance;
2. If there is any indication that fraud, gross abuse or corrupt practices may be involved; or
3. If the sub-agreement is terminated for default or for convenience.

6. COVENANT AGAINST CONTINGENT FEES

The ENGINEER assures that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee excepting bona fide employees or bona fide established commercial or selling agencies maintained by the ENGINEER for the purpose of securing business. For breach or violation of this assurance, the OWNER shall have the right to annul this agreement without liability or, at its discretion, to deduct from the contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

7. GRATUITIES

a. If the OWNER finds after a notice and hearing that the ENGINEER or any of the ENGINEER'S agents or representatives offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of the OWNER, the State or EPA in an attempt to secure a contract or favorable treatment in awarding, amending or making any determinations related to the performance of this contract, the OWNER may, by written notice to the ENGINEER, terminate this contract. The OWNER may also pursue other rights and remedies that the law or this contract provides.

b. In the event this contract is terminated as provided in paragraph (a), the OWNER may pursue the same remedies against the ENGINEER as it could pursue in the event of a breach of the contract by the ENGINEER, and as a penalty, in addition to any other damages to which it may be entitled by law, be entitled to exemplary damages in an amount (as determined by the Owner) which shall be not less than three nor more than ten times the costs the ENGINEER incurs in providing any such gratuities to any such officer or employee.

8. FINAL PAYMENT

Upon satisfactory completion of the work performed under this contract, as a condition before final payment under this contract or as a termination settlement under this contract the ENGINEER shall execute and deliver to the OWNER a release of all claims against the OWNER arising under, or by virtue of, this contract, except claims which are specifically exempted by the ENGINEER to be set forth therein. Unless otherwise provided in this contract, by State law or otherwise expressly agreed to by the parties to this contract, final payment under this contract or settlement upon termination of this contract shall not constitute a waiver of the OWNER'S claims against the ENGINEER under this contract.

9. 40 CFR Part 33

The contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 40 CFR part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in termination of this contract or other legal available remedies.

IN WITNESS THEREOF, the parties hereto have executed, or caused to be executed, by their duly authorized officials, this Agreement on the respective dates indicated below.
The parties further certify by their signatures below that no modifications have been made to the standard language of this Agreement, other than those detailed in Section C.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date of the signature by the required approval authorities below.

By: _____ Date: _____

OWNER

Type Name Lynn Crawford

Title Mayor

By:  _____ Date: 03/20/2026

ENGINEER

Type Name Marty Howell, P.E.

Title President

Address 3500 Sedona Hills Parkway

Las Cruces, NM 88011

REVIEWED AND APPROVED: FUNDING AGENCY

AGENCY NAME: _____

By _____

Type Name _____

Date _____

ATTACHMENT I – Insurance

The ENGINEER agrees to obtain and maintain, at the ENGINEER's expense, such insurance as will protect the ENGINEER from claims under the Workman's Compensation Act and such comprehensive general liability and automobile insurance as will protect the OWNER and the ENGINEER from all claims for bodily injury, death, or property damage which may arise from the performance by the ENGINEER, or by the ENGINEER's employees, for the ENGINEER's functions and services required under this Agreement. Such insurance shall be in an amount not less than \$500,000 for injury to any one person and \$1,000,000 on account of any one accident and in the amount of not less than \$1,000,000 for property damage. The ENGINEER further agrees to procure and maintain professional liability (errors and omissions) insurance in an amount not less than \$1,000,000 per claim and in the aggregate. Prior to commencement of any work, the ENGINEER shall furnish to the OWNER a certificate that complies with this paragraph. The certificate shall provide that the policy shall not be canceled until at least ten (10) calendar days prior written notice shall have been given to the OWNER. ENGINEER shall provide annual updates of the certificate to demonstrate the policy remains in effect for the duration of this Agreement.

ATTACHMENT III – Engineering Services During the Design Phase

1. As set forth in the AGREEMENT FOR ENGINEERING SERVICES dated the ____ day of March, 2026 (effective date) by and between the Village of Ruidoso, the OWNER, and Souder, Miller & Associates, Inc., the ENGINEER, the OWNER and ENGINEER agree this ____ day of March, 2026 (authorization to proceed date) that ENGINEER shall furnish ENGINEERING SERVICES During the Design Phase in accordance with the GENERAL PROVISIONS of the Agreement and OWNER shall compensate the ENGINEER for services described as set forth below:

A. Perform or provide the following tasks and/or deliverables:

Permitting and design of flood mitigation and diversion structure improvements as detailed in the attached Exhibit A.

B. Cost Proposal – Include hourly breakdown for each task

<u>Field Survey and Mapping</u>	<u>\$29,434.57</u>
<u>Preliminary Design Phase Services</u>	<u>\$142,185.42</u>
<u>Final Design Phase Services</u>	<u>\$53,884.95</u>
<u>Total</u>	<u>\$225,504.94</u>

As detailed in the attached Exhibit A.

C. Reimbursable Expense Schedule

NA

D. Contract Time shall be 268 calendar days from the date of the OWNERS signature on Attachment III. Design phase services shall be completed and accepted by the OWNER by ____ (DATE). If design phase services have not been completed and accepted by ____ the ENGINEER shall pay the OWNER liquidated damages as outlined in the Agreement.

2. Compensation for ENGINEERING SERVICES During the Design Phase shall be by the

☒ **LUMP SUM** method of payment. The total amount of compensation for ENGINEERING SERVICES During the Design Phase, as described, including reimbursable expenses shall not exceed \$225,504.94, excluding gross receipt tax.

☐ **STANDARD HOURLY RATE WITH MAXIMUM** method of payment. The total amount of hourly charges, including reimbursables, for ENGINEERING SERVICES During the Design Phase, as described, shall not exceed \$____, excluding gross receipt tax, without prior written approval of the OWNER, with Funding Agency concurrence.

3. The amount of compensation shall not change unless the scope of services to be provided

by the ENGINEER changes and this Agreement is formally amended according to Section A-5.

4. Signatures

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date of the signature by the required approval authorities below.

By: _____ Date: _____

OWNER

Type Name Lynn Crawford

Title Mayor

By:  Date: 03/20/2026

ENGINEER

Type Name Marty Howell, P.E.

Title President

Address 3500 Sedona Hills Parkway

Las Cruces, NM 88011

REVIEWED AND APPROVED: FUNDING AGENCY

AGENCY NAME: _____

By _____

Type Name _____

Date _____

ATTACHMENT IV – Engineering Services During the Construction Phase

1. As set forth in the AGREEMENT FOR ENGINEERING SERVICES dated the ____ day of March, 2026 (effective date) by and between the Village of Ruidoso, the OWNER, and Souder, Miller & Associates, Inc., the ENGINEER, the OWNER and ENGINEER agree this ____ day of March, 2026 (authorization to proceed date) that ENGINEER shall furnish ENGINEERING SERVICES During the Construction Phase in accordance with the GENERAL PROVISIONS of the Agreement and OWNER shall compensate the ENGINEER for services described as set forth below:

A. Perform or provide the following tasks and/or deliverables:

Construction of flood mitigation and diversion structure improvements as detailed in the attached Exhibit A..

B. Cost Proposal – Include hourly breakdown for each task

<u>Bid Phase Services</u>	<u>\$22,640.40</u>
<u>Construction Phase Services</u>	<u>\$75,822.13</u>
<u>Closeout Services</u>	<u>\$27,086.90</u>
<u>Construction Observation Services</u>	<u>\$70,835.77</u>
<u>Total</u>	<u>\$196,385.20</u>

As detailed in the attached Exhibit A.

C. Reimbursable Expense Schedule

NA

D. Contract Time shall be 255 calendar days from the date of the OWNERS signature on Attachment IV. Construction phase services shall be completed and accepted by the OWNER by ____ (DATE). If construction phase services have not been completed and accepted by ____ the ENGINEER shall pay the OWNER liquidated damages as outlined in the Agreement.

2. Compensation for ENGINEERING SERVICES During the Construction Phase shall be by the

☒ **LUMP SUM** method of payment. The total amount of compensation for ENGINEERING SERVICES During the Construction Phase, as described, including reimbursable expenses shall not exceed \$196,385.20, excluding gross receipt tax.

☐ **STANDARD HOURLY RATE WITH MAXIMUM** method of payment. The total amount of hourly charges, including reimbursables, for ENGINEERING SERVICES During the Construction Phase, as described, shall not exceed \$____, excluding gross receipt tax, without prior written approval of the OWNER, with Funding Agency concurrence.

3. The amount of compensation shall not change unless the scope of services to be provided by the ENGINEER changes and this Agreement is formally amended according to Section A-5.

4. Signatures

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date of the signature by the required approval authorities below.

By: _____ Date: _____

OWNER

Type Name Lynn Crawford

Title Mayor

By:  _____ Date: 03/20/2026

ENGINEER

Type Name Marty Howell, P.E.

Title President

Address 3500 Sedona Hills Parkway

Las Cruces, NM 88011

REVIEWED AND APPROVED: FUNDING AGENCY

AGENCY NAME: _____

By _____

Type Name _____

Date _____

Exhibit A

Scope of Services

Project Description

Souder, Miller & Associates (SMA) prepared this Scope of Services to provide Design, Bid, Construction and Construction Observation Services to Village of Ruidoso (Owner) for the reconstruction of the Upper Canyon Diversion and the construction of a sedimentation structure at the diversion site. SMA proposes to complete the following scope of work.



Project Management

1. **Project Management Plan (PMP) Preparation:** SMA will prepare a PMP to outline and document the following to ensure the entire project team has information necessary for a successful project:
 - a. Project team roles and responsibilities
 - b. SMA role in the project
 - c. Subconsultants for the project
 - d. Critical issues for the project
 - e. Project scope, budget and schedule including identification of critical path items
 - f. Change management and mitigation
 - g. QAQC Plan
 - h. Risk identification and safety plan

The PMP is intended to be a living document and the PM will update the PMP throughout the project as necessary.

2. **Kick-off Meeting:** SMA will hold an internal kick-off meeting to review the PMP with all of the project team members.
3. **Ongoing Project Management:** SMA will set up project budget and files, keep project records, update PMP as necessary, and prepare monthly invoices as outlined in the contract. The fee for these monthly project management tasks is based on an overall project duration not to exceed twenty-two (22) months, of which not more than six (6) months are anticipated to include field activities.

Preliminary Design Phase Services

4. **Property/Easement Research:** SMA will research Right-of-Way Maps, and will research County plat records for adjacent properties and for existing easements shown on plats that may be applicable to the project. Included are the copying and related costs charged by the County for this research. SMA has not included a title search or warranty deed/easement research in this scope of services.

Exhibit A

Preliminary Design, Final Design, Bid, Construction Phase and Construction Observation Services

Scope of Services

5. **As-built Research:** SMA will go through the Owner's available record drawings for applicable projects. The Owner will provide access to the records or will provide the records to SMA.
6. **Utility Coordination:** SMA will submit a design conference ticket and a design locate to the 811 Utility Locating System to attempt to get information regarding utilities that may be impacted by the proposed project. SMA will follow-up with utilities that do not respond to the design conference ticket up to two times before proceeding with the design without the utility information. SMA has not included physical utility location (potholing) nor associated mapping in this scope of services. SMA shall not be held responsible for costs (typically change order costs) associated with utilities that are not marked despite SMA's efforts to obtain the existing utility information.
7. **Topographical Survey:** SMA will perform a topographical survey of the project area. This survey will identify the approximate locations of property boundaries and easements based on occupation lines, but will not include a boundary survey of these properties. The survey will collect utility markings from the 811 design locate.
8. **USACE Nationwide Permit:** The USACE permit requires that a Pre-Construction Notification (PCN) form be submitted to USACE via USACE online permitting portal.
The following assumptions were used to prepare the scope and fee for the USACE permit:
 - a. An Individual Section 404 permit will not be required.
 - b. No biological or hazardous materials issues are anticipated.
 - c. The cultural and biological report used for the original permit will be used in the application for the PCN. If the existing reports cannot be used, SMA will notify the Owner immediately and prepare an amendment to conduct updated cultural and biological reports.Once these surveys have been performed, SMA will incorporate the recommendations from the surveys into the design for the diversion structure. SMA will complete the application on behalf of the Owner using the previous surveys for the improvements. Because the permit review by the USACE is beyond our control, any delays associated with this review will justify a time extension for the contract.
9. **Prepare Plans:** SMA will prepare a pre-final set of plans to include the design elements above and a Cover Sheet, General Notes, Overall Map with Survey Control, Standard Details, and Standard Construction Traffic Control Sheets.
10. **Engineer's Opinion of Probable Construction Cost (EOPCC):** Once the pre-final design of the waterline(s) is complete, SMA will estimate the quantities for all proposed items and will prepare unit cost price estimates for each item using SMA's database of existing projects and other resources.
11. **Prepare Contract Documents and Specifications:** SMA will prepare contract documents utilizing the Engineers Joint Contract Documents Committee (EJCDC) standard contract. This task includes modifying the standard contract for this project, and preparing a bid schedule. SMA will also prepare technical specifications to cover work included in the project.
12. **Submission to Agency:** SMA will submit the pre-final plans, contract documents and technical specifications (Construction Documents) to the following Agency for their review concurrent with the design review with the Owner:
 - a. NMED – Construction Programs Bureau (CPB)

Exhibit A

Preliminary Design, Final Design, Bid, Construction Phase and Construction Observation Services

Scope of Services

- b. NMED-SWQB – SMA will follow the NMED-Surface Water Quality Bureau (SWQB) Best Management Practices to prepare the application for the Clean Water Act Section 401 Water Quality Certification. The Owner will need to provide all the information requested by NMED-SWQB that is not part of the proposed project.

SMA intends to address the comments from the Owner and the Agency at the same time.

13. **Design Review with Owner:** SMA will conduct a meeting with the Owner's representative to review the pre-final design. SMA will submit an electronic copy of the pre-final Construction Documents and the EOPCC via email prior to the pre-final design review meeting. The purpose of this meeting will be to identify any issues with the alignment, profiles, and connections for the waterline(s) and to ensure that the alignment, profiles, pipe sizes, and locations of connections are acceptable to the Owner. Some potential issues to identify at this stage include: private or public utilities that were not identified on the available record drawings, landscaping or structures that were not identified on the topographical survey. The meeting is also intended to get Owner input on the standard details and to identify any Owner concerns related to operation and maintenance.

Final Design Phase Services

14. **Revisions to Construction Documents:** SMA will revise the Construction Documents to attempt to incorporate the pre-final design review comments resulting from the Owner and Agency reviews. The contract documents will be updated to include applicable wage rates as required by the Funding Agency.
15. **Revisions to EOPCC:** The EOPCC will be updated to reflect design changes.
16. **Resubmittal:** SMA will re-submit the revised Construction Documents to the Owner and Agency as needed based on review comments received.
17. **Production:** SMA will produce a final plan set on 24" x 36" bond, and a final unbound set of the contract documents and specifications. These final documents will be used to make copies for distribution to the Owner and for distribution during bidding. **SMA will deliver three (3) hardcopies of the final Construction Documents and the EOPCC (and one digital pdf copy) to the Owner after production.**

Bid Phase Services

18. **Advertisement:** SMA will arrange to have the Advertisement for Bids published in one newspaper of general circulation nearest to the Owner's location two (2) times, approximately a week apart. The cost of the Advertisement is included in SMA's fee.
19. **Distribute Bid Documents:** SMA will make available electronic copies of the construction documents to interested Contractors during bidding and to local plan rooms. Contractors may obtain copies by contacting SMA to obtain access via the SMA web site. SMA will provide three (3) copies of 24" x 36" final design drawings, contract documents and technical specifications to the Contractor to whom the project is awarded.
20. **Substitution Evaluation:** SMA will evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by bidders, provided that such proposals are allowed

Exhibit A

Preliminary Design, Final Design, Bid, Construction Phase and Construction Observation Services

Scope of Services

- by the contract documents prior to award of contracts for the Work. Engineer shall issue a bid addendum to allow approved “or equals” and substitutes.
21. **Answer Questions During Bidding:** SMA will accept and answer questions from Contractors during bidding.
 22. **Prepare Addenda:** If any additional information needs to be included in the construction documents, SMA will prepare addenda and distribute these addenda to all interested Contractors, to the Owner and to the funding Agency.
 23. **Pre-bid Conference:** Prior to the bid opening, SMA will conduct a pre-bid conference to review the project and to address any outstanding issues with the construction documents. A field review of the project may be conducted during this pre-bid conference. SMA assumes that the Owner can arrange to hold the pre-bid conference at facilities that do not require any fees for their use, so no costs for facility use are included.
 24. **Open Bids:** The Contractors will submit their bids to the Owner up to the bid opening deadline. After the bid opening deadline, SMA will read the bids received aloud, and will adjourn the bid opening meeting.
 25. **Preparation of Bid Tabulation:** SMA will examine and tabulate the bids received to identify any math or extension errors.
 26. **Preparation of Recommendation of Award:** SMA will examine the bid packages received for completeness. SMA will check that the Contractors are properly licensed and will verify the references for the low bidder. SMA will then make a written recommendation to the Owner for the award of the construction contract.

Construction Phase Services

27. **Project Management:** SMA will attend the Owner’s bi-weekly construction progress meetings for the project.
28. **Conform Contract Documents:** Once the Owner and Agency have approved the recommendation of award, SMA will prepare the Notice of Award for execution by the Owner and the Contractor. SMA will also prepare the contract documents for execution. Four (4) original copies will be prepared for execution by the Owner and Contractor and for concurrence by the Funding Agency. SMA will distribute the fully executed copies to the Owner, the Contractor the Funding Agency, and will keep one original.
29. **Pre-construction Conference:** SMA will conduct a pre-construction conference to address construction related issues with the Owner and Contractor. The cut-off for pay periods will be set as well as the Notice to Proceed date. SMA will prepare the Notice to Proceed for execution by the Contractor and the Owner.
30. **Submittal and Shop Drawing Review:** SMA will review submittals and other data that the Contractor is required to submit for conformance with the information in the contract documents and compatibility with the design concept of the project as a functioning whole. Such reviews will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. SMA will verify and document whether Contractor

submittals are in accordance with the technical specifications. SMA will create and maintain a log of all submittals and shop drawings.

31. **Respond to Requests for Information:** SMA will respond to the Contractor's Requests for Information (RFIs) in writing. SMA will create and maintain a log of all RFIs. This may include issuing necessary clarifications and interpretations of the contract documents and technical specifications as appropriate.
32. **Field Orders:** SMA may issue field orders authorizing minor variations from the requirements of the contract documents and technical specifications.
33. **Site Visits:** SMA will make periodic visits to the site to observe the progress and quality of the various aspects of the Contractor's work. Based on the information obtained, and to the extent possible during such visits and observations, SMA will determine if the work is proceeding in accordance with the contract documents and technical specifications and will keep the Owner informed of the progress of the work. During such visits, SMA will recommend to the Owner that the Contractor's work be disapproved and rejected while it is in progress if SMA believes that such work will not produce a completed project that conforms generally to the contract documents and technical specifications or that will prejudice the integrity of the design concept of the completed project as a functioning whole as indicated in the contract documents and technical specifications. These visits will coincide with the progress meetings. The fee is based on making 4 site visits [one site visit per month for the 150 calendar day construction project duration and preparing a site visit record for the Owner via email.
34. **Progress Meetings:** SMA will establish, coordinate and attend regular project meetings throughout the duration of the project. The fee is based on attending monthly meetings for the 150 calendar day construction project duration and preparing agendas and meeting minutes for these meetings.
35. **Preparation of Periodic Pay Requests:** SMA will prepare periodic pay requests for the work accomplished during the pay period as verified by the construction observer. Based on the construction observer review of applications for payment and engineer review of accompanying support documentation, SMA will recommend the amounts that the Contractor be paid. Such recommendations of payment will be based on such observations and review that, to the best of SMA's knowledge, the work has progressed to the point indicated, the quality of such work is generally in accordance with the contract documents, and the conditions precedent to the Contractor being entitled to such payment appear to have been fulfilled.
36. **Preparation of Contract Change Orders:** SMA will recommend action on any proposed contract changes including review of proposed pricing. SMA will prepare formal change orders required for the project.
37. **Complete Acceptance Meeting:** SMA will schedule and arrange acceptance meetings when notified by the Contractor that the project is ready for acceptance. SMA will complete one (1) substantial completion acceptance meetings, prepare and distribute a "punchlist" outlining items to be addressed, and complete one (1) follow-up final completion meeting after Contractor indicates that the "punchlist" has been completed and make a recommendation to the Owner regarding project acceptance.

Closeout Services

38. **Preparation of Close-out Documents:** At the completion of the project, SMA will complete forms, provide direction, and coordinate completion of the closeout documents required by the NMED listed below:
 - a. Certification of Substantial Completion
 - b. Engineer & Community Acceptance
 - c. Record Drawings & O&M Manuals Acceptance
 - d. Consent of Surety to Final Payment
 - e. Affidavit of Payment and Release of Liens
 - f. Labor Standards Certification
39. **Maintain Records:** SMA will maintain records of all contract documents, change orders, RFIs, pay requests, funding reimbursement requests, financial status reports, certified payroll, and design and construction documents during the entire construction period and will deliver one (1) copy of the complete project records to the Owner at the completion of construction in digital PDF format.
40. **Preparation of Record Drawings:** SMA will update the construction plans to reflect changes made during construction. Record Drawings will be prepared utilizing the project documentation provided by the Contractor. SMA will submit the original record drawings, and three (3) hardcopies, and one digital pdf copy, and the Owner's GIS database will be updated to include this project record data to the Owner upon completion.
41. **Preparation of Operation and Maintenance (O&M) Manual:** SMA will prepare an O&M Manual to include operation and maintenance information provided by the manufacturer of manufactured goods installed on the project.
42. **Warranty Meeting:** SMA will schedule and arrange a warranty meeting 11 months after the substantial completion date to make recommendations to the Owner regarding corrections covered by the Contractor's warranty that need to be completed. SMA will complete one (1) warranty meeting, prepare and distribute a "punchlist" outlining items to be addressed, and complete one (1) follow-up meeting after Contractor indicates that the "punchlist" has been completed.

Construction Observation Services

43. **Construction Observation:** SMA will provide an on-site Resident Project Representative (RPR) on a part-time basis during construction. The fee for this work was based on a construction duration of 150 calendar days and completing 2 inspections per week that will be coordinated with the Contractor to attempt to occur during periods when the observation will be most beneficial. SMA will coordinate with the Contractor to attempt to minimize the number of site visits and provide site visits when they are most beneficial. Please note that SMA is unable to observe errors or deficiencies while SMA personnel are not on site.
44. **Preconstruction Conference:** The RPR will participate in the pre-construction conference prior to commencement of work at the site.

Exhibit A

Preliminary Design, Final Design, Bid, Construction Phase and Construction Observation Services

Scope of Services

Schedule

SMA proposes to complete the above scope of services according to the following schedule.

<u>Task</u>	<u>Duration (calendar days)</u>
List of data needed from Owner	28 days from contract execution
Preliminary Design Phase Services	130 days from the receipt of Owner data
Final Design Phase Services	50 days from the receipt of Agency and Owner comments
Bid Phase Services	30 days from the receipt of Agency approval and Owner authorization to Bid
Construction Phase Services	150 days from the construction Notice to Proceed
Construction Observation Services	150 days from the construction Notice to Proceed
Closeout Services	335 days from the construction Substantial Completion

Compensation

The budgets shown below exclude New Mexico Gross Receipts Tax (NMGRT). NMGRT will be added to each invoice based on the current rate at the time of billing. The budgets for the phases shown will be billed on a lump sum basis; therefore, the invoices will not include an itemized breakdown of charges. Invoices will be issued on a monthly basis reflecting the percentage of each task completed to date.

<u>Task</u>	<u>Subtotal</u>	<u>NMGRT</u>	<u>Total</u>
Field Survey and Mapping	\$ 27,207.00	\$2,227.57	\$29,434.57
Preliminary Design Phase Services	\$ 131,425.00	\$10,760.42	\$142,185.42
Final Design Phase Services	\$ 49,807.00	\$4,077.95	\$53,884.95
Bid Phase Services	\$ 20,927.00	\$1,713.40	\$22,640.40
Construction Phase Services	\$ 70,084.00	\$5,738.13	\$75,822.13
Closeout Services	\$ 25,037.00	\$2,049.90	\$27,086.90
Construction Observation Services	\$ 65,475.00	\$5,360.77	\$70,835.77
Total	\$ 389,962.00		\$421,890.14

Assumptions

SMA made the following assumptions to develop the fee for the above scope of services:

1. SMA assumes that there is no contamination on the project site. If contamination is found on the project site, and investigation is required, SMA will alert the Owner and additional scope and fee will be negotiated with the Owner.
2. SMA assumes that the Owner knows the location of their existing utilities and can mark the locations within allowable 811 tolerances (typically within 18 inches).
3. SMA assumes that the proposed improvements will have adequate space within the specified corridor to be installed. If existing utilities within the corridor prohibit the installation of the proposed improvements, SMA will alert the Owner, and the corridor will be modified, or an additional scope and fee will be negotiated with the Owner to cover the additional engineering required to mitigate the existing utilities.

Exhibit A

Preliminary Design, Final Design, Bid, Construction Phase and Construction Observation Services

Scope of Services

4. SMA assumes that the bid opening and the preconstruction conference will either be held at SMA's offices or that the Owner can arrange to hold the meetings at facilities that do not require any fees for their use. No costs for use of a third-party facility are included in the fee.
5. SMA assumes that the construction progress meeting can be held at the Contractor's trailer or at the Owner's facilities. No costs for use of a third-party facility are included in the fee.
6. SMA assumes that the Owner is familiar with the general operation and maintenance of the improvement(s) completed as part of this project and is aware of potential failure(s) should the improvement(s) not be properly operated and maintained.
7. During construction, job site safety shall be the sole responsibility of the Contractor. SMA will not manage or control the Contractor's work with respect to means, methods, techniques, sequences or procedures, and/or safety. The Contractor will be responsible for complying with rules, laws, ordinances, codes, or orders in the execution of the work. SMA and its subconsultants shall have no responsibility for the discovery, presence, handling, removal, or disposal of or exposure of persons to hazardous materials or toxic substances in any form at the Project site. The Scope of Services and Fee Schedule have been prepared on the basis that no hazardous or toxic substances are present at the Project site. In the event hazardous or toxic substances are discovered on the site, the parties agree to review and renegotiate the terms and conditions of this contract to protect the interests of the parties.

Summary of Cost Proposal

Souder, Miller & Associates

Professional Services and Expenses Task/Hours/Fee Breakdown Related To

Project Description: VOR Upper Canyon Diversion Reconstruction
Project Number: 6332807
Owner: Village of Ruidoso
Date of Submittal: March 13, 2026
Tax Rate on Services: 8.1875%

TOTALS

PHASE/ CATEGORY OF WORK	Subtotal	NMGRT	Total
Field Survey and Mapping	\$27,207.00	\$2,227.57	\$29,434.57
Preliminary Design	\$131,425.00	\$10,760.42	\$142,185.42
Final Design	\$49,807.00	\$4,077.95	\$53,884.95
Bid Administration	\$20,927.00	\$1,713.40	\$22,640.40
Construction Administration	\$70,084.00	\$5,738.13	\$75,822.13
Closeout	\$25,037.00	\$2,049.90	\$27,086.90
Construction Observation	\$65,475.00	\$5,360.77	\$70,835.77
TOTALS	\$389,962.00	\$31,928.14	\$421,890.14

EXHIBIT B.2 - COST PROPOSAL

Souder, Miller & Associates

Professional Services and Expenses Task/Hours/Fee Breakdown Related To

DESIGN PHASE - BASIC ENGINEERING SERVICES

Project Description: VOR Upper Canyon Diversion Reconstruction
Project Number: 6332807
Owner: Village of Ruidoso
Date of Submittal: March 13, 2026
Tax Rate on Services: 8.1875%

Note: Figures in this table do not include tax.

Job Description	Principal	Project Eng./Sci./Surv II	Eng/CAD Surv/Field Tech IV	Eng/CAD Surv/Field Tech IV	Eng/CAD Surv/Field Tech V	Eng/CAD Surv/Field Tech III	Project Fin./Mgr. Asst. II	GPS	Mileage	Expenses	Per Diem (Part Day)	Per Diem (Full Day)	Total	SMA	Sub Contracts	Total Task
Billing Rate per Unit	\$ 265	\$ 175	\$ 125	\$ 125	\$ 140	\$ 110	\$ 110	\$ 30	\$ 0.725	\$ 1	\$ 60	\$ 220				
Unit	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	HR	Mi	Actual	Days	Days	\$	\$	\$	\$
Task																
Field Survey and Mapping																
Survey Plan / Instructions		2											\$ 350	\$ -	\$ -	\$ 350
Survey Research:																
Utility Locations		2	2	2									\$ 850	\$ -	\$ -	\$ 850
Right of Way / Easements		6											\$ 1,050	\$ -	\$ -	\$ 1,050
Perform Field Research		6	7										\$ 1,925	\$ -	\$ -	\$ 1,925
Perform Field Survey				27		27		27	224	150		4	\$ 8,347	\$ -	\$ -	\$ 8,347
Traffic Control				3		3				500			\$ 1,205	\$ -	\$ -	\$ 1,205
Establish Utility & R/W Location		6											\$ 1,050	\$ -	\$ -	\$ 1,050
Establish Control Points		6		3		3		3					\$ 1,845	\$ -	\$ -	\$ 1,845
Aerial Mapping													\$ -	\$ -	\$ -	\$ -
Download Data / tins & contours		3	5	5									\$ 1,775	\$ -	\$ -	\$ 1,775
Prepare Mapping		5	14	27									\$ 6,000	\$ -	\$ -	\$ 6,000
Survey Control	2	7											\$ 1,755	\$ -	\$ -	\$ 1,755
Verify Accuracy of Survey	2	3											\$ 1,055	\$ -	\$ -	\$ 1,055
Subtotal Hours:	4	46	28	67		33		30	224	650		4	\$ 8,810	\$ -	\$ -	\$ 27,207
Subtotal Cost:	\$ 1,060	\$ 8,050	\$ 3,500	\$ 8,375	\$ -	\$ 3,630	\$ -	\$ 900	\$ 162	\$ 650	\$ -	\$ 880	\$ 27,207	\$ -	\$ -	\$ 27,207

Job Description	Principal	Senior Eng./Sci./Surv I	Project Eng./Sci./Surv I	Staff EIT/LSIT Sci. II	Eng/CAD Surv/Field Tech VI	Project Fin./Mgr. Asst. II	GPS	Mileage	Expenses	Per Diem (Part Day)	Per Diem (Full Day)		Total	SMA	Sub Contracts	Total Task
Billing Rate per Unit	\$ 250	\$ 185	\$ 155	\$ 135	\$ 150	\$ 100	\$ 30	\$ 1	\$ 1	\$ 60	\$ 220					
Unit	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	HR	Mi	Actual	Days	Days		\$	\$	\$	\$
Task																
Preliminary Design																
Kick-off Meeting		2	2		2	2							\$ 1,180	\$ -	\$ -	\$ 1,180
Ongoing Project Management	4	4	5										\$ 2,515	\$ -	\$ -	\$ 2,515
Invoicing	4	4				7							\$ 2,440	\$ -	\$ -	\$ 2,440
NMDOT Environmental Clearance													\$ -	\$ -	\$ -	\$ -
As-built Research			3										\$ 465	\$ -	\$ -	\$ 465
Utility Coordination		3		13				224					\$ 2,472	\$ -	\$ -	\$ 2,472
Design Plans																
Index / Cover / Notes / Key Map			2	9	17								\$ 4,075	\$ -	\$ -	\$ 4,075
Site Plans			5	17	68								\$ 13,270	\$ -	\$ -	\$ 13,270
Diversion Details	2		16	28	128								\$ 25,960	\$ -	\$ -	\$ 25,960
Details			9	17	34								\$ 8,790	\$ -	\$ -	\$ 8,790
Traffic Control			1	3	5								\$ 1,310	\$ -	\$ -	\$ 1,310
Well Details													\$ -	\$ -	\$ -	\$ -
Structural	2	2	4										\$ 1,490	\$ 36,750	\$ -	\$ 38,240
Electrical													\$ -	\$ -	\$ -	\$ -
Mechanical													\$ -	\$ -	\$ -	\$ -
Geotechnical Report													\$ -	\$ -	\$ -	\$ -
Model Design Verification													\$ -	\$ -	\$ -	\$ -
Site Certificate		2		3									\$ 775	\$ -	\$ -	\$ 775
Engineer's Opinion of Probable Construction Cost (EOPCC)		2	9	16									\$ 3,925	\$ -	\$ -	\$ 3,925
Prepare Contract Documents and Specifications		5	9	51									\$ 9,205	\$ -	\$ -	\$ 9,205
QA/QC	9	3	5	11									\$ 5,065	\$ -	\$ -	\$ 5,065
Submission to Agency(ies)		2	2	3				100					\$ 1,185	\$ -	\$ -	\$ 1,185
NMOSE Permits													\$ -	\$ -	\$ -	\$ -
USACE Permitting		6	18	34									\$ 8,490	\$ -	\$ -	\$ 8,490
Design Review with Owner		4	4	4				224					\$ 2,062	\$ -	\$ -	\$ 2,062
Subtotal Hours:	21	39	94	209	254	9		448	100				\$ 94,675	\$ 36,750	\$ -	\$ 131,425
Subtotal Cost:	\$ 5,250	\$ 7,215	\$ 14,570	\$ 28,215	\$ 38,100	\$ 900	\$ -	\$ 325	\$ 100	\$ -	\$ -	\$ -	\$ 94,675	\$ 36,750	\$ -	\$ 131,425
Final Design																
Ongoing Project Management	2	2	2										\$ 1,180	\$ -	\$ -	\$ 1,180
Invoicing	2	2				3							\$ 1,170	\$ -	\$ -	\$ 1,170
Revisions to Design Plans																
Index / Cover / Notes / Key Map			2	5	9								\$ 2,335	\$ -	\$ -	\$ 2,335
Site Plans		5	5	9	17								\$ 5,465	\$ -	\$ -	\$ 5,465
Diversion Details	4	16	16	16	52								\$ 16,400	\$ -	\$ -	\$ 16,400
Details		5	9	9	68								\$ 13,735	\$ -	\$ -	\$ 13,735
Traffic Control			1	2	3								\$ 875	\$ -	\$ -	\$ 875
Revisions to EOPCC		2	5	9									\$ 2,360	\$ -	\$ -	\$ 2,360
Revisions to Construction Documents		3	5	9									\$ 2,545	\$ -	\$ -	\$ 2,545
Design Review with Owner		4	4	4				224					\$ 2,062	\$ -	\$ -	\$ 2,062
Post Revisions Model Design Verification													\$ -	\$ -	\$ -	\$ -
Resubmittal		2		3					50				\$ 825	\$ -	\$ -	\$ 825
Production				3	3								\$ 855	\$ -	\$ -	\$ 855
Subtotal Hours:	8	41	49	69	152	3		224	50				\$ 49,807	\$ -	\$ -	\$ 49,807
Subtotal Cost:	\$ 2,000	\$ 7,585	\$ 7,595	\$ 9,315	\$ 22,800	\$ 300	\$ -	\$ 162	\$ 50	\$ -	\$ -	\$ -	\$ 49,807	\$ -	\$ -	\$ 49,807

Total Cost of Design Phase Services: \$ 208,440

EXHIBIT C.2 - COST PROPOSAL

Souder, Miller & Associates

Professional Services and Expenses Task/Hours/Fee Breakdown Related To

CONSTRUCTION PHASE - BASIC ENGINEERING SERVICES

Project Description: VOR Upper Canyon Diversion Reconstruction
 Project Number: 6332807
 Owner: Village of Ruidoso
 Date of Submittal: March 13, 2026
 Tax Rate on Services: 8.1875%

Note: Figures in this table do not include tax.

Job Description	Principal	Senior Eng./Sci./Surv I	Project Eng./Sci./Surv I	Staff EIT/LSIT Sci. II	Eng/CAD Surv/Field Tech IV	Eng/CAD Surv/Field Tech VI	Eng/CAD Surv/Field Tech III	Construc. Observer IV	Project Fin./Mgr. Asst. II	GPS	Mileage	Expenses	Per Diem (Part Day)	Per Diem (Full Day)	Total SMA	Sub Contracts	Total Task
Billing Rate per Unit	\$ 250	\$ 185	\$ 155	\$ 135	\$ 120	\$ 150	\$ 105	\$ 130	\$ 100	\$ 30	\$ 0.725	\$ 1	\$ 60	\$ 220			
Unit	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Mi	Actual	Days	Days	\$	\$	\$
Task																	
Bid Administration																	
Ongoing Project Management	3	3													\$ 1,305	\$ -	\$ 1,305
Invoicing	3	3							5						\$ 1,805	\$ -	\$ 1,805
Advertisement		2	2	4					2			250			\$ 1,670	\$ -	\$ 1,670
Distribute Bid Documents			2	3											\$ 715	\$ -	\$ 715
Substitution Evaluation		2	3												\$ 835	\$ -	\$ 835
Answer Questions During Bidding		2	5	11											\$ 2,630	\$ -	\$ 2,630
Prepare Addenda	2	2	5	11		5									\$ 3,880	\$ -	\$ 3,880
Pre-bid Conference		6	6								224	100			\$ 2,302	\$ -	\$ 2,302
Open Bids		4	4												\$ 1,360	\$ -	\$ 1,360
Preparation of Bid Tabulation			2	9											\$ 1,525	\$ -	\$ 1,525
Preparation of Recommendation of Award		2	5	13											\$ 2,900	\$ -	\$ 2,900
Subtotal Hours:	8	26	34	51		5			7		224	350			\$ 20,927	\$ -	\$ 20,927
Subtotal Cost:	\$ 2,000	\$ 4,810	\$ 5,270	\$ 6,885	\$ -	\$ 750	\$ -	\$ -	\$ 700	\$ -	\$ 162	\$ 350	\$ -	\$ -	\$ 20,927		
Construction Administration																	
Ongoing Project Management	6	6	6												\$ 3,540	\$ -	\$ 3,540
Invoicing	6	6							11						\$ 3,710	\$ -	\$ 3,710
Conform Contract Documents		3	5	11											\$ 2,815	\$ -	\$ 2,815
Preparation and Pre-construction Conference		5	6								224	30			\$ 2,047	\$ -	\$ 2,047
Submittal and Shop Drawing Review	12	6	11	21											\$ 8,650	\$ -	\$ 8,650
Respond to Requests for Information		9	17	17											\$ 6,595	\$ -	\$ 6,595
Field Orders		4	7	13											\$ 3,580	\$ -	\$ 3,580
Site Visits (4 site visits)		23	23								896				\$ 8,470	\$ -	\$ 8,470
Preparation and Progress Meetings (5 meetings)			5	9											\$ 1,990	\$ -	\$ 1,990
Preparation of Periodic Pay Requests (5 months)		6	16	21											\$ 6,425	\$ -	\$ 6,425
Preparation of Contract Change Orders	5	9	21	42		42									\$ 18,140	\$ -	\$ 18,140
Complete Acceptance Meeting		6	6					6			224				\$ 2,982	\$ -	\$ 2,982
Maintain Records			3	5											\$ 1,140	\$ -	\$ 1,140
Subtotal Hours:	29	83	126	139		42		6	11		1344	30			\$ 70,084	\$ -	\$ 70,084
Subtotal Cost:	\$ 7,250	\$ 15,355	\$ 19,530	\$ 18,765	\$ -	\$ 6,300	\$ -	\$ 780	\$ 1,100	\$ -	\$ 974	\$ 30	\$ -	\$ -	\$ 70,084		
Closeout																	
Ongoing Project Management	2	2													\$ 870	\$ -	\$ 870
Invoicing	2	2							3						\$ 1,170	\$ -	\$ 1,170
Preparation of Close-out Documents		3	5	9											\$ 2,545	\$ -	\$ 2,545
Preparation of Record Drawings	8	8	15		59										\$ 12,885	\$ -	\$ 12,885
Preparation of Operation and Maintenance (O&M) Manual	3	5	9	17											\$ 5,365	\$ -	\$ 5,365
Warranty Meeting		6	6								224				\$ 2,202	\$ -	\$ 2,202
Subtotal Hours:	15	26	35	26	59				3		224				\$ 25,037	\$ -	\$ 25,037
Subtotal Cost:	\$ 3,750	\$ 4,810	\$ 5,425	\$ 3,510	\$ 7,080	\$ -	\$ -	\$ -	\$ 300	\$ -	\$ 162	\$ -	\$ -	\$ -	\$ 25,037		
Construction Staking																	
Stake Center Line (offset)																	
Alignment															\$ -	\$ -	\$ -
Replacement of stakes (24 hrs onsite)															\$ -	\$ -	\$ -
Traffic Control															\$ -	\$ -	\$ -
Data Collection (top of pipe, etc.)															\$ -	\$ -	\$ -
Incorporate Data into Record Drawings															\$ -	\$ -	\$ -
QA/QC Record Data															\$ -	\$ -	\$ -
Subtotal Hours:															\$ -	\$ -	\$ -
Subtotal Cost:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Construction Observation																	
Construction Observation								430			9648		43		\$ 65,475	\$ -	\$ 65,475
Number of Visits = 43																	
Hours per Visit = 10																	
Subtotal Hours:								430			9648		43		\$ 65,475	\$ -	\$ 65,475
Subtotal Cost:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 55,900	\$ -	\$ -	\$ 6,995	\$ -	\$ 2,580	\$ -	\$ 65,475		

Total Cost of Construction Phase Services: \$ 181,524